

MUNICIPALITY OF MIDDLESEX CENTRE

COMMITTEE OF ADJUSTMENT MINUTES

HEARING NUMBER 1/10

February 22, 2010

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The first hearing of 2010 was held by the Committee of Adjustment this date at the Middlesex Centre Municipal Offices, Coldstream, Ontario at 7:00 p.m.

**PRESENT**

Stephen Harvey  
Ian Nielsen  
Ken Nixon  
Don Rows

**REGRETS**

Sharon McMillan

**STAFF PRESENT**

Benjamin Puzanov, Planner and Secretary-Treasurer

**NOMINATION OF CHAIR**

Moved by Ken Nixon  
Seconded by Stephen Harvey

**THAT Don Rows be appointed as Chair of the Committee of Adjustment for the 2010 term.**

Carried

**NOMINATION OF VICE-CHAIR**

Moved by Don Rows  
Seconded by Ken Nixon

**THAT Stephen Harvey be appointed as Vice-Chair of the Committee of Adjustment for the 2010 term.**

Carried

**DECLARATIONS OF PECUNIARY INTEREST**

There were no declarations of pecuniary interest stated by any of the members.

**MINUTES**

Moved by Stephen Harvey  
Seconded by Ken Nixon

**THAT the minutes of the December 21, 2009 Hearing of the Municipality of Middlesex Centre Committee of Adjustment, be approved.**

Carried

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MUNICIPALITY OF MIDDLESEX CENTRECOMMITTEE OF ADJUSTMENT MINUTES

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APPLICATION NO. A-1/10 – 2065852 Ontario Limited, Ken Briggs (Agent), Part of Blocks 27 and 32, Plan 33M 570, Parts 1 and 10, Reference Plan 33R-17050 (geographic Township of Lobo); 99 Union Avenue, Komoka

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Chair Rows read the purpose and effect of the subject application, which is to seek relief from Subsection 4.19 (a) of the Middlesex Centre Comprehensive Zoning By-law No. 2005-005, which requires a setback of 7.5 metres (24.6 ft) from the top-of-bank of a municipal drain. The applicant is proposing a setback of 3.85 metres (12.6 ft) from the top-of-bank of the Komoka Drainage Works in order to facilitate the construction of a single-detached dwelling on the subject property.

Chair Rows asked staff to provide a brief history of the Komoka Drainage Works.

Ben Puzanov indicated that the Komoka Drainage Works was originally constructed in the mid 1970s, with the portion servicing the Union Avenue Branch being constructed in 2007 in order to accommodate the development of the Komoka Station Subdivision.

Ken Briggs was in attendance to speak to the application and indicated that the subject property is an existing lot of record on a registered plan of subdivision and that a minor variance is required in order to construct a single-detached dwelling on the lands. Mr. Briggs further noted that he agrees with Planning staff that changing the design of the proposed single-detached dwelling by reducing its width and extending it to the north would be highly unusual for Komoka and be incompatible with the character of the surrounding residential neighbourhoods. Mr. Briggs added that he is of the opinion that the proposed 3.85 metre setback from the top-of-bank of the Komoka Drainage Works would be adequate for maintenance purposes.

Ken Nixon asked whether the portion of the drain servicing the Komoka Station Subdivision is open. Ken Briggs confirmed that it is open.

Ben Puzanov read the correspondence from the County of Middlesex, the Upper Thames River Conservation Authority, the Municipal Public Works and Engineering Department, the Municipal Chief Building Official and Brian and Hendrica Ritchie of 22862 Komoka Road.

Mr. Puzanov indicated that the requirement of the Middlesex Centre Comprehensive Zoning By-law 2005-005 to maintain a 7.5 metre (24.6 ft) setback from the top-of-bank of municipal drains is to ensure the public's safety by preventing the flooding of homes and making certain that the Municipality has sufficient room to gain access to and maintain its drains. Mr. Puzanov further noted should the Committee approve the proposed minor variance, staff recommends that a retaining wall, designed by a qualified professional structural engineer, be constructed at the west end of the subject property along the Komoka Drainage Works municipal drain. Mr. Puzanov added that the Municipality's Drainage Superintendent has indicated that there is sufficient room to carry out maintenance on the opposite side of the drain, accessible from the Komoka Road (County Road 16) road allowance.

Mr. Puzanov indicated that staff is supportive of the application as the minor variance complies with the general intent and purpose of the Municipal Official Plan and Comprehensive Zoning By-law, is considered to be minor in nature and represents an appropriate development and use of the subject property.

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Brian and Hendrica Ritchie of 22862 Komoka Road were in attendance to speak to the application. Mr. Ritchie indicated that he is comfortable with the proposed location of the retaining wall but expressed concerns about flooding basements in the area. He further added that it would be preferable if the bottoms of the basement windows for the house proposed on the subject property were to be above grade. Mr. Ritchie also expressed some concern about future access and maintenance of the Union Avenue Branch of the Komoka Drainage Works if the proposed reduction in the required top-of-bank setback is approved by the Committee of Adjustment.

Mr. Puzanov indicated that Planning staff spoke with the Municipality's Chief Building Official and he indicated that he will be requiring an interim grading certificate for the subject property. Mr. Puzanov noted that requesting this additional grading certificate will help prevent improper grading from occurring on the subject lands and should help prevent basement flooding. Mr. Puzanov added that the Municipality will require final grading certificates for all of the lots on the north side of Union Avenue prior to assumption of the subject subdivision.

With respect to access to and maintenance of the drain, Mr. Puzanov explained that Planning Staff relies on the expertise of the Municipality's Drainage Superintendent, who indicated there will be sufficient room to access the drain should the Committee decide to grant the subject minor variance application.

Hendrica Ritchie stated that Heather Place has been experiencing severe flooding during heavy rainfall events. Mr. Briggs indicated that the street is designed to store water at peak flows and that the reduction in the setback from the top-of-bank of Komoka Drainage Works would not impact Heather Place.

Moved by Stephen Harvey  
Seconded by Ian Neilsen

**THAT application A-1/10, filed by 2065852 Ontario Limited (Ken Briggs, agent) for relief from the top-of-bank of the Komoka Drainage Works; specifically to reduce the minimum setback required from the top-of-bank of the portion of the drain that is located along the west side of the subject property to 3.85 metres; whereas the Middlesex Centre Comprehensive Zoning By-law 2005-005 requires a minimum setback of 7.5 metres; for a property described as Part of Blocks 27 and 32, Plan 33M 570 and more specifically as Parts 1 and 10, Reference Plan 33R-17050 (geographic Township of Lobo), Municipality of Middlesex Centre and known municipally as 99 Union Avenue; BE GRANTED.**

Carried

Conditions:

1. THAT a retaining wall, intended to allow a single-detached dwelling to be constructed 3.85 metres away from a municipal drain and designed by a qualified professional structural engineer, be constructed at the west end of the property legally described as Part of Blocks 27 and 32, Plan 33M 570 and more specifically as Parts 1 and 10, Reference Plan 33R-17050, along the Komoka Drainage Works municipal drain and that the qualified professional structural engineer provide written confirmation to the Municipality indicating that the retaining wall has been constructed according to his or her specifications.

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2. THAT the bottoms of the window sills proposed for the dwelling to be built on the property legally described as Part of Blocks 27 and 32, Plan 33M 570 and more specifically as Parts 1 and 10, Reference Plan 33R-17050, be shown as being above grade on the building plans to be submitted to the Municipality for approval and that they be to the satisfaction of the Municipality's Chief Building Official.

Reasons:

The Committee was of the opinion that the extent of the variance is "minor" in nature from the provisions of the Middlesex Centre Comprehensive Zoning By-law. The Committee stated that the general intent and purpose of both the Middlesex Centre Official Plan and Zoning By-law are maintained with the granting of the minor variance application. The Committee was satisfied that the variance was desirable for the appropriate development and use of the subject property; and, that the variance was in keeping with the general development of the area. It was also noted that there were valid reasons why the Zoning By-law requirement cannot be met.

APPLICATION NO. A-2/10 – Marquis Developments London Inc. (Callon Dietz, agent), Unit 8, Middlesex County Vacant Land Condominium Plan 701 (geographic Township of London), Municipality of Middlesex Centre; 10 – 1 Maplewood Lane, Ilderton

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Chair Rows read the purpose and effect, which is to seek relief from Subsection 7.1.7 of the Middlesex Centre Comprehensive Zoning By-law No. 2005-005, which restricts maximum lot coverage within the Urban Residential First Density (UR1-1) Zone to 35% of the total lot area. The applicant is proposing a maximum lot coverage of 37.19% in order to accommodate a larger garage on the subject property.

Shaun Swift and Rob Denney of Marquis Developments London Inc. were in attendance to speak to the application and explained that the wrong set of building plans was submitted to the Municipality for approval. As such, a minor variance is now required to recognize the increased lot coverage area on the property.

Mr. Puzanov added that the plans submitted to the Municipality's Planning and Development Services Department illustrated two different layouts for the single-detached dwelling. Mr. Puzanov noted that the plans approved by the Planning Division showed a total lot coverage of 34.99%; contrary to what was built on the subject property.

Mr. Puzanov read the correspondence from the County of Middlesex, the Municipal Public Works and Engineering Department and the Municipal Chief Building Official. Mr. Puzanov indicated that based on his planning analysis provided in the staff report, the proposed minor variance complies with the general intent and purpose of the Municipal Official Plan and Comprehensive Zoning By-law, is considered to be minor in nature and represents an appropriate development and use of the subject property. Mr. Puzanov added that if the Committee was to approve the application for minor variance, he recommended that the following condition be attached to its approval: that the 2.19% increase in total lot coverage be reflected as a northerly expansion to the attached garage approved by staff on September 25, 2009 (forming part of the file for Building Permit 2009-0287), and that this expansion be clearly shown on the new site plan and building plans to be submitted for the Municipality's approval.

Kelly Cahill of 12 – 1 Maplewood Lane was in attendance to speak to the application. Mr. Cahill stated that he did not agree with Mr. Puzanov's assessment of the impact of the proposed minor variance on his property. He added that he will not oppose the application as the applicant has offered to plant a row of trees in order to screen the garage addition.

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Moved by Stephen Harvey  
 Seconded by Ken Nixon

**THAT application A-2/10, filed by Marquis Developments London Inc. (Callon Dietz, agent) for relief from the maximum lot coverage requirement of the Urban Residential First Density (UR1-1) Zone; specifically to increase the maximum lot coverage requirement to 37.19%; whereas the Middlesex Centre Comprehensive Zoning By-law 2005-005 allows for a maximum lot coverage of 35% with the Urban Residential First Density (UR1-1) Zone; for a property described as Unit 8, Middlesex County Vacant Land Condominium Plan 701 (geographic Township of London), Municipality of Middlesex Centre and known municipally as 10 – 1 Maplewood Lane; BE GRANTED**

Carried

Condition:

THAT the 2.19% increase in total lot coverage be reflected as a northerly expansion to the attached garage approved by staff on September 25, 2009 (forming part of the file for Building Permit 2009-0287), and that this expansion be clearly shown on the new site plan and building plans to be submitted for the Municipality's approval.

Reasons:

The Committee was of the opinion that the extent of the variance is "minor" in nature from the provisions of the Middlesex Centre Comprehensive Zoning By-law. The Committee stated that the general intent and purpose of both the Middlesex Centre Official Plan and Zoning By-law are maintained with the granting of the minor variance application. The Committee was satisfied that the variance was desirable for the appropriate development and use of the subject property; and, that the variance was in keeping with the general development of the area.

**NEXT MEETING:**

**Monday, March 22, 2010 at the Middlesex Centre Municipal Offices, 10227 Ilderton Road, Coldstream, at 7:00 p.m.**

**ADJOURNMENT:**

ON MOTION DULY MADE, SECONDED AND CARRIED

IT WAS RESOLVED

THAT this meeting adjourn now at 8:20 p.m.

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 Chair

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 Secretary