

MUNICIPALITY OF MIDDLESEX CENTRECOMMITTEE OF ADJUSTMENT MINUTES

HEARING NUMBER 7/09

September 28, 2009

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The seventh hearing of 2009 was held by the Committee of Adjustment this date at the Middlesex Centre Municipal Offices, Coldstream, Ontario at 7:00 p.m.

**PRESENT**

Sharon McMillan  
Ken Nixon  
Don Rows

**REGRETS**

Stephen Harvey

**STAFF PRESENT**

Benjamin Puzanov, Secretary-Treasurer  
Marc Bancroft, Assistant Secretary-Treasurer

**DECLARATIONS OF PECUNIARY INTEREST**

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

**MINUTES**

Moved by Ken Nixon  
Seconded by Sharon McMillan

**THAT the minutes of the August 24, 2009 Hearing of the Municipality of Middlesex Centre Committee of Adjustment, be approved.**

Carried

APPLICATION NO. A-14/09 – Carey Thody and Pamela Tunks, C & L Group Inc. (Agent), Part of Lot 4, Concession 9, Part 1, Reference Plan 33R-14897 (geographic Township of Lobo); 9926 Ilderton Road, Poplar Hill

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Chair Rows read the purpose and effect of the subject application. The purpose of the Application is to seek permission from the Committee of Adjustment for the enlargement or expansion of a use that was lawfully used for a purpose prohibited by the by-law on the day the by-law was passed pursuant to Section 45(2) of the Planning Act. The owners are specifically requesting permission to construct a 81.75 m<sup>2</sup> (880 ft<sup>2</sup>) addition to an existing single-detached dwelling. The subject property is currently zoned Village Commercial (C1) pursuant to the Middlesex Centre Comprehensive Zoning By-law 2005-005, which does not permit a single-detached dwelling.

Carey Thody was in attendance and did not have anything to add to the description of the application provided by Chair Rows.

Ken Nixon asked staff whether the existing single-detached dwelling on the property was constructed at a time when the property was zoned for residential purposes. Benjamin Puzanov confirmed that this was the case.

Sharon McMillan asked staff when and why the zoning of the subject property was changed from residential to commercial. Marc Bancroft indicated that staff supported the rezoning of

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the subject property in 2005 because of the high-traffic location of the subject property long Ilderton Road. Mr. Bancroft added that the Municipality has not received any commercial development plans for the subject property since the rezoning.

Benjamin Puzanov read the correspondence from the County of Middlesex, the Municipal Public Works and Engineering Department, the Municipal Chief Building Official and the Municipal Fire Chief.

Mr. Puzanov indicated that he is supportive of the application as the minor variance meets the tests of Section 10.6 of the Municipal Official Plan with respect to expansion of legal non-conforming uses, 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 indicated that if the Committee was to approve the application for minor variance, he recommended that no conditions be attached to the approval.

Sharon McMillan asked Mr. Thody about the existing commercial use on the subject property. Mr. Thody indicated that the property is currently used for the storage of trailers and other renovation equipment.

Gerard Bergsma of 9904 Ilderton Road was in attendance to speak to the application. Mr. Bergsma indicated that while he has no objections to the proposed addition, he has a number of concerns relating to the upkeep and maintenance of the subject property. Mr. Puzanov explained that the concerns expressed by Mr. Bergsma are property standards issues and not land use planning matters. Mr. Puzanov assured Mr. Bergsma that he would relay his concerns to the Municipality's By-law Enforcement Officers and noted that he would keep Mr. Bergsma informed of the proceedings.

Representatives from the Poplar Hill Baptist Church property were also in attendance and indicated that they had no concerns with Mr. Thody's proposal.

Moved by Ken Nixon  
Seconded by Sharon McMillan

**THAT application A-14/09, filed by Carey Thody and Pamela Tunks for an expansion of a legal non-conforming use in order to construct a 81.75 m<sup>2</sup> (880 ft<sup>2</sup>) addition to an existing single-detached dwelling on a property that is zoned Village Commercial (C1), which does not permit a single-detached dwelling; for a property described as Part of Lot 4, Concession 9, Part 1, Reference Plan 33R-14897 (geographic Township of Lobo), Municipality of Middlesex Centre, Municipal Address: 9926 Ilderton Road; BE GRANTED.**

Carried

Reasons:

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 proposal. The Committee was satisfied that the proposal was in keeping with general development in the area, desirable for the appropriate development and use of the subject property and that it would not have a detrimental effect on adjacent or surrounding land uses. It was also noted that the effect of the proposed variance can be considered minor because the nature of the legal non-conforming use on the subject property will not change with the expansion of the existing single-detached dwelling on the property. The Committee also noted that there

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are valid reasons why the Zoning By-law cannot be complied with and that the application for enlargement of the legal non-conforming building satisfies the Official Plan.

APPLICATION NO. B-9/09 – Katherine McLean, K. I. McLean (agent), Part of Lot 17, Concession 13, (geographic Township of London); 14312 Thirteen Mile Road, Birr

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Chair Rows read the purpose and effect of the subject application to sever a parcel of land for lot addition purposes from the original 1,635 square metre (0.4 ac) parcel. The lot to be severed would have a width of approximately 18.6 metres (61 ft), an irregular depth and an area of approximately 566 square metres (0.14 ac). The lot to be severed is to be merged with the adjacent easterly parcel known municipally as 23225 Richmond Street (“This Oak House”). The lot to be retained would have a lot frontage of approximately 18.6 metres (61 ft) on Thirteen Mile Road, a lot depth of 57.5 metres (188.58 ft), and a lot area of approximately 1,069 square metres (0.26 ac). The lot to be retained contains a single detached dwelling and a detached garage.

Katherine McLean was in attendance to speak to the application.

Sharon McMillan asked Katherine McLean about the proposed use for the proposed lot addition. Ms. McLean indicated that the lands would be used by the receiving commercial lot (“This Oak House”) to house a one-storey storage building to be associated with the business.

Benjamin 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, the Municipal Fire Chief and the Ministry of Transportation. Mr. Puzanov indicated that based on his planning analysis provided in the staff report, the proposed severance application does not comply with the County of Middlesex Official Plan, the Municipality of Middlesex Centre Official Plan and the Municipal Comprehensive Zoning By-law.

Mr. Puzanov indicated that the effect of the proposed lot addition would be the creation of an irregular-shaped lot and a lot that is significantly smaller than most residential lots within the hamlet of Birr. Mr. Puzanov also noted that the two resulting lots would be incompatible with the surrounding area and would not represent an orderly use of land. Mr. Puzanov further explained that there would be servicing implications for the retained parcel if the severance was granted.

Sharon McMillan asked Ms. McLean if she had a response to Mr. Puzanov’s planning analysis. Ms. McLean indicated that she had spoken to a contractor who had assured her that the retained parcel would be able to accommodate a new septic system if the existing one was to fail.

Ms. McLean asked Mr. Puzanov whether her application would be supported if the servicing issues could be addressed. Mr. Puzanov explained that in consultation with the Chief Building Official, Planning staff determined that the retained parcel would not be able to accommodate the existing septic system, a well and a contingency area for the existing septic system. Mr. Puzanov further noted that servicing was only one of the concerns that he had with the application and explained that the proposal did not comply with several policies and requirements of the County of Middlesex Official Plan, the Middlesex Centre Official Plan and the Municipal Comprehensive Zoning By-law; as indicated in his report to the Committee.

Mr. Puzanov stated that he had expressed his concerns to both Ms. McLean and her solicitor prior to submission of the application and explained to both parties that Planning

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staff would not support the proposed lot addition.

Ken Nixon proposed a motion to defer the subject application by one month so that the applicant could consult with a septic system designer. The motion was not seconded.

Moved by Sharon McMillan  
Seconded by Ken Nixon

**THAT application B-9/09, filed by Katherine McLean for consent to sever and convey as a lot addition a 566 square metre (0.14 acre) parcel of land to an abutting commercial property, addressed 23225 Richmond Street (Highway 4); for a property described as Part of Lot 17, Concession 13 (geographic Township of London), Municipality of Middlesex Centre, Municipal Address: 14312 Thirteen Mile Road (Birr); BE DENIED.**

Carried

Reasons:

The Committee stated that the proposal does not comply with the County of Middlesex Official Plan. The Committee also noted that the application does not conform to the Municipality of Middlesex Centre Official Plan or the Municipal Comprehensive Zoning By-law. The Committee indicated that the application does not satisfy the general consent policies of the Municipal Official Plan.

**NEXT MEETING:**

**Monday, October 26, 2009 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 7:45 p.m.

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Chair

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Secretary