



## STAFF REPORT

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**FUNCTION:** Committee of Adjustment

**CHAIR:** Cindy Tremblay

**DATE:** February 27, 2019

**REPORT NO.:** **PL-2019-19**  
**A.3/2019 – 269 Ruby Street**  
**Minor Variance Application**

### RECOMMENDATION:

The Planning and Building Services Department supports the approval of Minor Variance Application A.3/2019 respecting 269 Ruby Street for the following Variance:

- To reduce the Minimum Rear Yard setback from 7.6 metres to 5.18 metres, a variance of 2.42 metres for the purpose of a residential addition

To permit a Rear Yard addition subject to the following Condition:

1. That a Building Permit be obtained within one (1) year.

### BACKGROUND:

#### Site and Surrounding Area

The Town received an application for a Minor Variance from Mr. Larry Kottka on February 11, 2019, for the property known as 269 Ruby Street. The subject property is legally described as Part Lot 38 and Part Lot 39 on Registered Plan 510 and located on the corner of Ruby Street and Irwin Street (See Attachment #1: Location Map).

The subject property is a corner lot with a frontage of 27.43 metres on Irwin Street, a frontage of 30.48 metres on Ruby Street, for a lot area of 836.12 square metres. The property supports an existing Single Detached Dwelling with a footprint of approximately 146.79

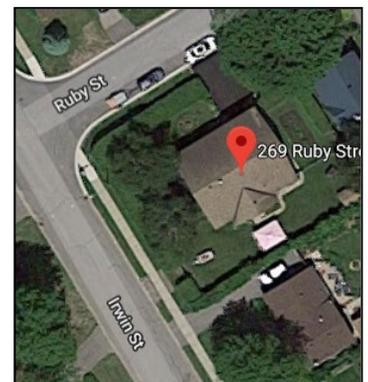


Figure 1 - 269 Ruby Street

square metres. The entrance and driveway to the property is located on Ruby Street (See Figure 1).

Surrounding Land Uses:

North: Residential  
South: Residential  
East: Residential  
West: Residential

**Proposed Development and Application Request**

The Applicant is proposing a 42.55 square metre addition to the existing dwelling on the east side. The addition will have the same depth as the existing dwelling at 11.63 metres and extends a width of 3.66 metres. The proposed addition is shown on Attachment #2. To accommodate the addition, the Applicant is requesting a reduction of the Minimum Rear Yard Setback from 7.6 metres to 5.18 metres, a Variance of 2.42 metres.

**Provincial Policy Statement, Provincial Plans and County Official Plan**

Section 3 of the *Planning Act* states that all planning applications must be consistent with the Provincial Policy Statement. The PPS contains a number of policies regarding intensification and redevelopment in fully serviced settlement areas. Section 14(1) of the *Places to Grow Act*, 2005 requires that all decisions under the *Planning Act* shall conform to the Growth Plan for the Greater Golden Horseshoe (GGH) area. Generally, the Growth Plan 2017 directs growth to built-up areas within communities that have the capacities to accommodate the growth and development and requires intensification of development and greater densities within communities to create more compact, vibrant and complete communities.

**Town of Midland Official Plan**

The property is designated as **RESIDENTIAL DISTRICT** in the Town of Midland's Official Plan. The objectives of the designation stated in Section 3.3.1 a) are to create, maintain and enhance residential areas, which foster a sense of neighbourhood, character and belonging and to protect these areas from inappropriate development.

**Town of Midland Zoning By-law 2004-90, as amended**

The subject property is zoned **Residential Zone – R3**, in the Town's Zoning By-law 2004-90, as amended. The permitted uses of the R3 Zone include Accessory Building, Detached Dwelling Unit, Duplex Dwelling Unit, Home Occupation, Public Use, Secondary Suite and Semi-Detached Dwelling unit. The Minimum Rear Yard setback for the R3 zone is 7.6 metres. The proposed addition complies with all By-law provisions with the exception of the Rear Yard setback.

Section 2 of the By-law provides definitions for the terms used in the document. In a corner lot with frontage on two streets, the By-law defines the Front Lot Line as the shorter lot line that abuts a street and the longer lot line that abuts a street shall be deemed the exterior side lot line. In the case of the subject property, the frontage on Irwin Street is considered the front lot line even though functionally, the entrance of the subject property is located on Ruby Street. As such, the lot would require a minimum rear yard setback of 7.6 metres on the east side of the lot.

### **Departmental and Agency Comments**

March 4, 2019 – Director of Operations, Parks and Facilities

1. No issues.

March 4, 2019 – Director of Engineering, Water and Wastewater

1. No comments.

### **ANALYSIS:**

The Applicant is proposing a 42.55 square metre addition to the existing dwelling. The addition will have the same depth as the existing dwelling at 11.63 metres and extends a width of 3.66 metres. The Applicant is requesting a reduction of the Minimum Rear Yard Setback from 7.6 metres to 5.18 metres, a Variance of 2.42 metres.

As set out by section 45 of the *Planning Act*, Minor Variance should only be approved based on whether it meets all four tests:

- Is the application minor in nature?
- Is it desirable for the appropriate development or use of the land, building or structure?
- Is it in keeping with the general intent and purpose of the Zoning By-law?
- Is it in keeping with the general intent and purpose of the Official Plan?

### **Minor in Nature**

A Variance to the Minimum Rear Yard Setback from 7.6 metres to 5.18 metres is a difference of 2.42 metres which represents 68% of the By-law requirements. When determining if a Variance is minor, it is not just a numerical calculation. The size and dimension of the proposed development and the neighbourhood context should all be considered when determining minor. The subject property is a corner lot where the frontage has been deemed to be on Irwin Street as per the By-law definitions while functionally, the frontage of the property is on Ruby Street. As such, despite being considered a rear yard addition as per the By-law, functionally the yard is an interior side yard and conversely the interior yard as per the By-law is functionally the rear yard. For interior side yards, a Minimum Setback of 1.22 metres would be required as per the By-law. A setback of 5.18 metres is being proposed which far exceeds an interior yard setback of 1.22 metres. Given the above, Staff finds that the requested Variance is minor.

### **Desirability**

The Applicant is requesting the Variance for the purpose of a rear yard addition. The addition will align with the existing dwelling and will give the owner additional living space. There is no foreseeable negative impact on the neighbourhood with the proposed addition, particularly given where the addition is located is functionally an interior side yard. As such, the proposed variance is a desirable and appropriate use of the property and will not negatively impact the neighborhood.

### **Intent and Purpose of the Zoning By-law**

The intent of the Zoning By-law regulations as it relates to setbacks is to provide for appropriate separation between dwellings, structures and public infrastructure. As previously described, the proposed addition is functionally located in the interior yard of the property where a separation distance of 5.18 metres is appropriate and adequate distance from the neighboring property. As such, an appropriate amount of setback distance is maintained, and the intent and purpose of the Zoning By-law is still met.

### **Intent and Purpose of the Official Plan**

The property is designated as **RESIDENTIAL DISTRICT** in the Town of Midland's Official Plan. The intent of the designation is to foster a sense of neighborhood and protect areas from inappropriate development. Staffs find that it does not disrupt from the sense of neighborhood nor is it inappropriate. Therefore, it meets the general intent and purpose of the Official Plan.

### **CONCLUSIONS:**

Based on a review of the Variance Application A.3/2019, it is the opinion of the Planning and Building Services Department that the Application satisfies the four tests for Minor Variances as set out in Section 45 of the *Planning Act*. Therefore, Planning and Building Services are supportive of the application, subject to the following Condition:

1. That a Building Permit be obtained within one (1) year.

### **FINANCIAL IMPACT:**

There are no financial impacts as a result of this application.

Prepared by: Angela Zhao, Planner

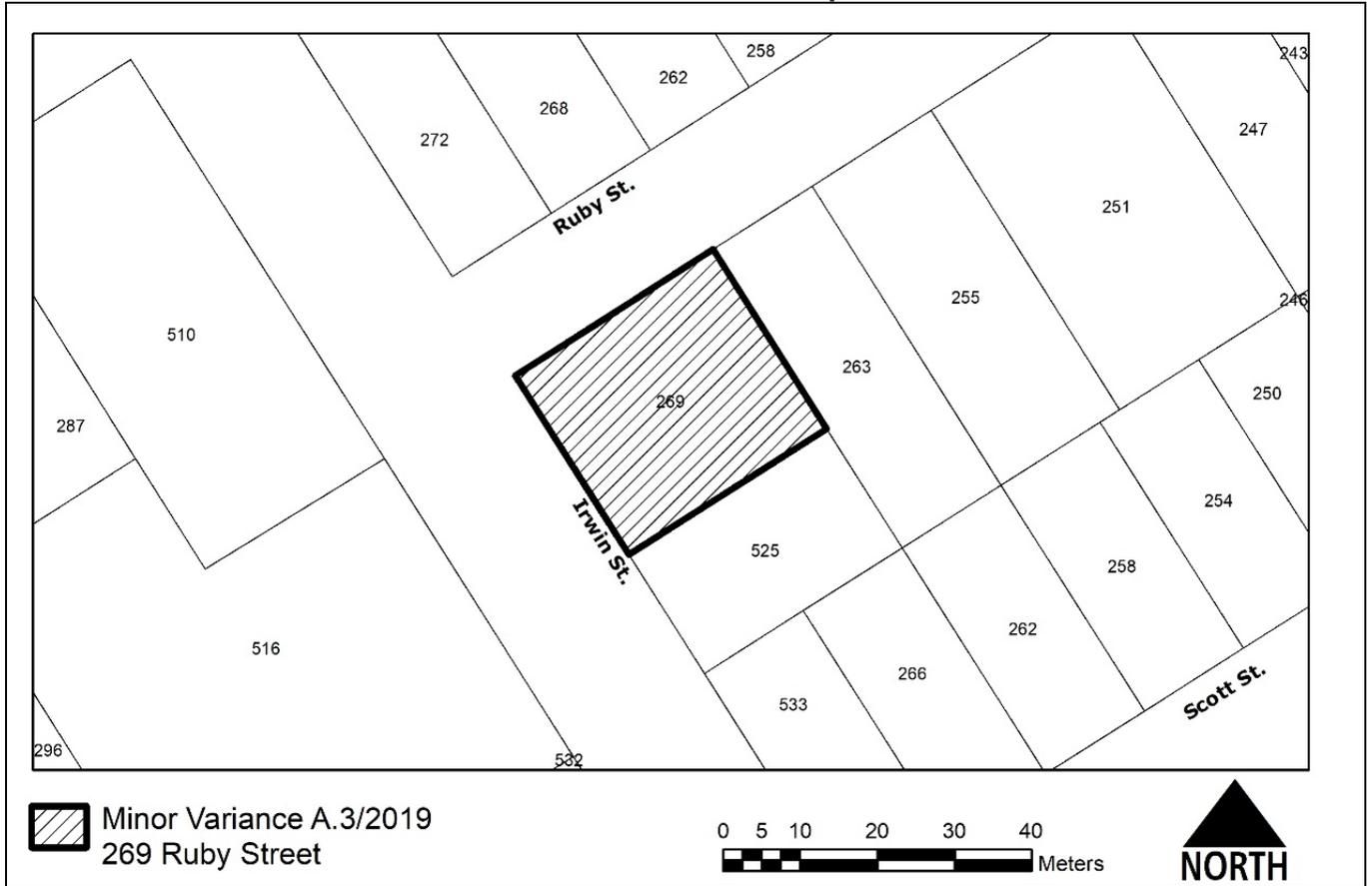
Approved by: Wesley Crown, Director of Planning & Building Services

Attachments:

#1: Location Map

#2: Site Plan

# Attachment #1: Location Map



## Attachment #2: Site Plan

