



STAFF REPORT

FUNCTION: Committee of Adjustment

CHAIR: Cindy Tremblay

DATE: April 2, 2019

REPORT NO.: **PL-2019-20**
A.5/2019 – 8826 County Road 93
Minor Variance Application

RECOMMENDATION:

The Planning and Building Services Department supports the approval of Minor Variance Application A.5/2019 respecting 8826 County Road 93 for the following Variances:

- Permission for a Secondary Unit within an Accessory Building on a lot other than a through lot, corner lot, or a laneway lot.
- To reduce the interior side yard from 6.0 metres to 3.0 metres
- To increase the permitted accessory building coverage from 5% to 5.9%

To permit the construction of an Accessory Building with a Secondary Unit, subject to the conditions as set out in Staff Report No. PL-2019-29.

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 John DeCarli on March 3, 2019, for the property known as 8826 County Road 93. The subject property is legally described as Part lot 101 on Concession 1, more particularly described as Part 1 on Reference Plan 51R-10515. The subject property is located on the West side of County Road 93, approximately 400 metres north of the Highway 12 and County Road 93 intersection (See Attachment #1: Location Map).

The property has a frontage of 61 metres on County Road 93, a depth of 61 metres and a lot area of approximately 3615 square metres. The property currently has a single detached dwelling, a retail store (accessory building), and an accessory garage.

Surrounding Land Uses:

North: Residential/Rural

South: Rural

East: Vacant (Zoned Highway Commercial)

West: Rural

Proposed Development and Application Request

The Applicant is proposing to construct a new accessory building with a Second Unit that will have a building footprint of 80.27 square metres. The proposed accessory building will have an interior yard setback of 3.0 metres, whereas 6.0 metres is required in the Zoning By-law. The following variances are requested: a reduction in the interior side yard from 6.0 metres to 3.0 metres, an increase in accessory building coverage from 5% to 5.9%, and to permit a secondary unit in an accessory building, where it would otherwise only be permitted in a corner lot, through lot or laneway lot. A sketch of the proposed new accessory building is included in the report as Attachment #2.

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. Midland is a settlement area under the PPS and is required to be developed as a complete community. The PPS encourages a range and mix of residential uses including Second Units. The Town of Midland is required by the PPS to permit and facilitate all forms of residential intensification including Second Units.

One of the guiding principles of the Growth Plan is to build compact, vibrant and complete communities. It directs growth to built-up areas through intensification and encourages the development of complete communities, in part, by offering a range of housing types. 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.

The County Official Plan stipulates that a range of housing types be provided in settlement areas and that Midland's Official Plan and Zoning By-law facilitate the provision of a range of housing types and affordable housing. The County Official Plan encourages individual lot intensification such as secondary or accessory suites in residential buildings subject to meeting building, health and safety regulations.

Town of Midland Official Plan

The property is designated as **RESTRICTED RURAL** in the Town of Midland's Official Plan. In accordance with Section 3.6.4.2, redevelopment of existing uses may be permitted. This policy is intended to provide for some reasonable flexibility to allow for limited growth and change.

Section 2.3.6 sets out specific policies for Second Units which are summarized below:

- Second Unit may be permitted within a single detached, semi-detached, linked semi-detached, townhouse and street townhouse dwelling or located within a detached accessory building on the same lot in the **RESIDENTIAL DISTRICT** and **RESTRICTED RURAL** designations.
- A Second Unit shall only be created and used in accordance with the zoning provisions as set out in the implementing Zoning By-law.
- A Second Unit shall comply with all applicable health and safety standards, including but not necessarily limited to those set out in the Ontario Building Code and the Ontario Fire Code.
- The density requirements in Sections 3.3.4 b) and 3.3.5b) of this Plan shall not apply to prevent the establishment of Second Units.
- The Town may establish a registration or licensing program to regulate and/or administrate Second Units.

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

The subject property is zoned Rural - RU, in the Town's Zoning By-law 2004-90, as amended. The Rural – RU Zone permits a Single Detached Dwelling, Accessory Buildings, and Secondary Units.

Under Section 3.39 of the Zoning By-law, Second Units are only permitted within a Single Detached Dwelling provided the performance standards are adhered to. Second Units are only permitted as-of-right in accessory buildings provided the Lot is a Through Lot, Corner Lot, or a Laneway lot.

Departmental and Agency Comments

March 29, 2019 – Director of Engineering, Water and Wastewater

- I question whether the driveway to this secondary building has a legal entrance permit from the County. A request for a second entrance is against the Town's by-law and would not be acceptable. Engineering has no other comments as it is on private services.

ANALYSIS:

The Applicant is proposing to construct a new accessory building with a Second unit that will have a building footprint of 80.27 square metres. The proposed accessory building will have an interior yard setback of 3.0 metres, whereas 6.0 metres is required

in the Zoning By-law. The following variances are requested: a reduction in the interior side yard from 6.0 metres to 3.0 metres, an increase in accessory building coverage from 5% to 5.9%, and to permit a secondary unit in an accessory building, where it would otherwise only be permitted in a corner lot, through lot or laneway lot.

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?

The *Planning Act* was amended in 2011 under Bill 140, to require municipalities to amend their Official Plans and Zoning By-laws to permit Second Units in all single, semi and townhouse dwellings or in their accessory structures. In 2016, the Town amended the Official Plan and Zoning By-law to conform to Bill 140 requirements of the *Planning Act* respecting permitting Second Units. Council determined that Second Units in detached accessory structures, save for on Corner, Through, and Laneway Lots, required further research and analysis before appropriate performance standards could be established to accommodate this form of housing. Unfortunately, that work has not occurred and as such requests like the subject application require Zoning relief through

a Minor Variance or rezoning application. The proposed secondary unit in an accessory building is an appropriate use given the direction set out in the *Planning Act*, the Provincial Policy Statement, the Growth Plan and the County of Simcoe Official Plan which supports the introduction of Second Units to provide a range of housing options, promote intensification, and to provide more options for affordable housing. The proposed accessory building will be in a similar location to the existing accessory building (see



Figure 1.0) which will be visible from the road and can be appropriately accessed by emergency services.

The proposed accessory building will have an interior yard setback of 3.0 metres, whereas 6.0 metres is required in the Zoning By-law. The proposed accessory building will be maintaining

Figure 1.0

accessory building and will not be getting any closer to the neighboring property than the existing accessory building. A 3.0 metre setback would be an appropriate separation distance from the neighboring lands as it will be facing onto a neighboring garage. The proposed setback does not further contravene the existing setback and there are no anticipated adverse impacts to the reduced setback.

The Applicant is requesting an increase in accessory building lot coverage from 5.0% to 5.9%. The 0.9% increase is minor and is only required for the accessory buildings and not the overall lot coverage. The lot coverage of the subject property with the proposed accessory building would only occupy 17.6% of the 35% permitted maximum lot coverage. There are no anticipated adverse impacts to the increase in accessory building lot coverage.

CONCLUSIONS:

Based on a review of Minor Variance Application A.5/2019, 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:

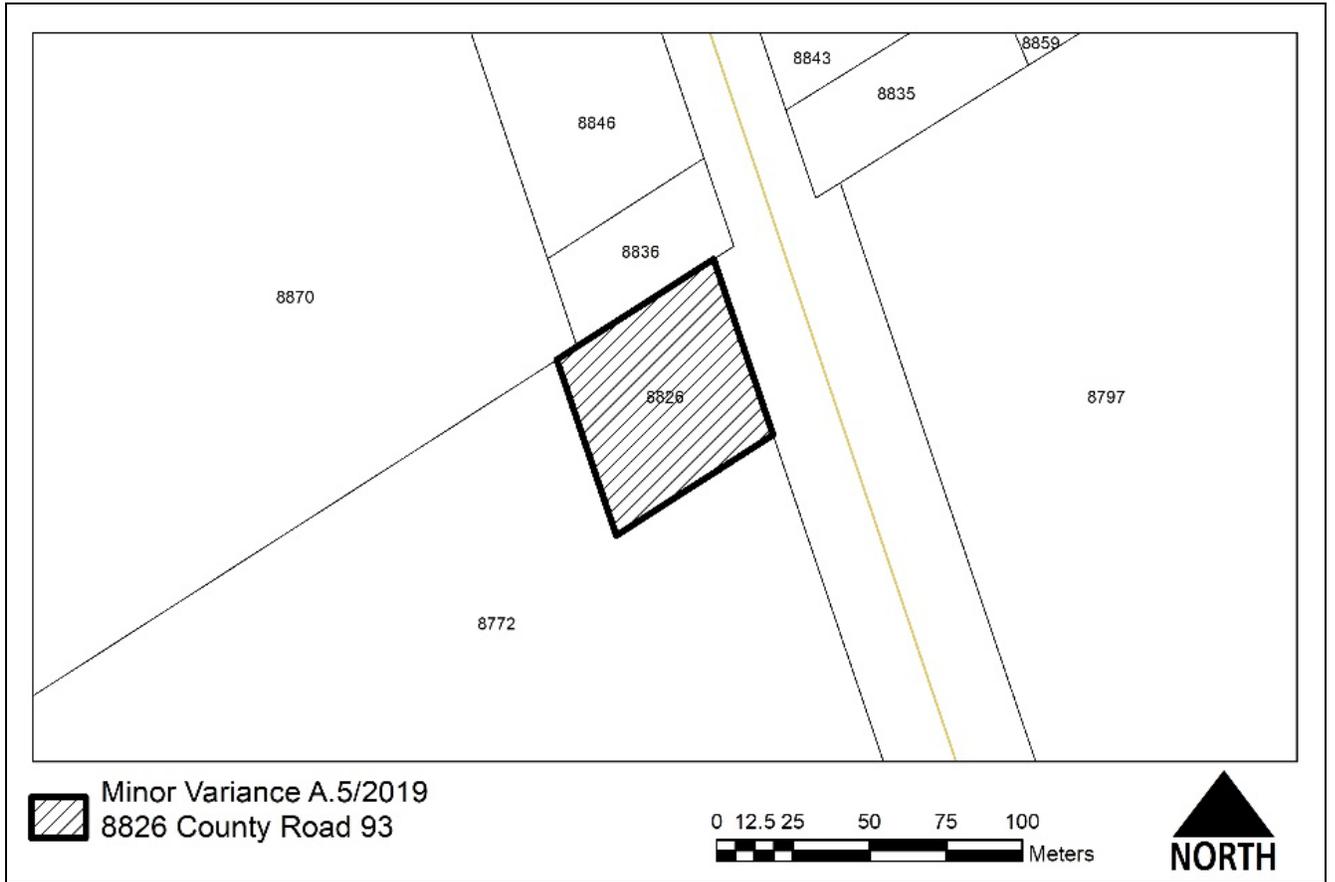
There are no financial impacts as a result of this application.

Prepared by: Angela Zhao, Planner
Approved by: Wesley Crown, MCIP, RPP
Director of Planning & Building Services

Attachments:

- #1: Location Map
- #2: Site Plan

Attachment #1: Location Map



Attachment #2: Site Plan

