



## STAFF REPORT

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**FUNCTION:** Committee of Adjustment

**CHAIR:** Cindy Tremblay

**DATE:** June 4, 2019

**REPORT NO.:** **PL-2019-45**  
**Minor Variance A.14/2019**  
**710 Balm Beach Road**

### **RECOMMENDATION:**

The Planning and Building Services Department supports the request for Minor Variance Application A.14/2019 respecting the property at 710 Balm Beach Road for the following Variance:

- A Variance to the Permitted Uses of the HC zone to add Child Care Centre as an additional permitted use

Subject to the following Conditions:

1. That the Applicant obtains Site Plan Approval within one (1) year of the date of Committee decision.
2. That the Child Care Centre use be fixed to the general size and extent as shown on the Site Plan attached to Staff Report PL-2019-45 dated June 4, 2019 and shown on Attachment #2.

### **BACKGROUND:**

The Town received an application for a Minor Variance on May 30, 2019 for the property located at 710 Balm Beach Road. The property is legally described as Part of Lot 105, Concession 1, Part 1 of Registered Plan 51R-31894 in the Town of Midland. The property is located on the north east corner of the intersection between Sundowner Road and Balm Beach Road. See Attachment #1 for the Location Map.

The site is irregular in shape and has an area of approximately 3.09 hectares. The property is currently occupied by a single 2-storey legal non-conforming dwelling. The Applicant has applied for Site Plan Approval to develop five (5) commercial buildings.

#### Surrounding Land Uses:

North: Rural

South: Commercial  
East: Commercial  
West: Rural

The Applicant is currently seeking Site Plan Approval for the construction of a commercial development with a total of five (5) buildings (See Attachment #2). Building 'E' of the development is being proposed to be used as a Child Care Centre which will have a Gross Floor Area of 464.4 square metres and an associated outdoor play area of 440 square metres. A Child Care Centre is not a permitted use in the **HIGHWAY COMMERCIAL – HC ZONE**. As such, the Applicant is requesting a Variance to the permitted uses in the **HIGHWAY COMMERCIAL – HC ZONE** to include Child Care Centre as an additional permitted use on the subject property. The building breakdown of the proposed development is as follows:

Building	Proposed Use	GFA
A (2 Storey)	Office	2,786 m <sup>2</sup>
B (2 Storey)	Office/Medical	1,858 m <sup>2</sup>
C (1 Storey)	Retail	1,386 m <sup>2</sup>
D (1 Storey)	Retail	1,533 m <sup>2</sup>
E (1 Storey)	Daycare (Not a permitted use)	464 m <sup>2</sup>

In support of the proposed Variance, the Applicant has submitted a cover letter (Attachment #3) detailing the rationale for the proposal and an evaluation of the four tests under the *Planning Act*.

#### **Provincial Policy Statement, 2014**

Section 3 of the Planning Act states that all planning applications must be consistent with the Provincial Policy Statement. Midland is a Settlement Area in the PPS and Settlement Areas are to be the focus of growth and development. Efficient development is promoted and a range of uses, including employment, are to be accommodated. In Employment Areas, planning authorities are required to plan for, protect and preserve lands for current and future uses and ensure that the necessary infrastructure is provided to support current and projected needs.

#### **Growth Plan for the Greater Golden Horseshoe**

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. A new Growth Plan came into full force and effect on May 16, 2019. Generally, the Growth Plan 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.

#### **County of Simcoe Official Plan**

The Town of Midland is designated as a "SETTLEMENT AREA" in the County's Official Plan (OP). The County OP generally indicates that settlements should be the focus of growth and that compact form that provides efficient use of land on full services should be promoted. The County Official Plan policy regarding employment areas mirrors the PPS and Growth Plan

policies, requiring local municipalities to identify, plan and protect employment areas in their official plans for current and future employment uses.

### **Town of Midland Official Plan**

The subject property is designated **EMPLOYMENT AREAS** in the Town's Official Plan. The intent of the designation is to provide a diversified economic base and enhance employment opportunities. Commercial and Institutional uses such as a Child Care Centre is permitted and should be "located having regard for the compatibility of the use in terms of location and surrounding and adjacent uses."

### **Zoning By-law 2004-90, as amended**

The property is zoned **HIGHWAY COMMERCIAL – HC ZONE** with a Holding Symbol in Zoning By-law 2004-90. The HC zone permits a range of commercial uses. The Zoning By-law is written such that a use is prohibited unless listed as a permitted use within the specific zones. The proposed 'Child Care Centre' is not a permitted use in the HC Zone. The Zoning By-law defines a Child Care Centre as follows:

#### **Child Care Centre**

Shall mean "child care centre" as defined and regulated by the Child Care and Early Years Act, as amended or replaced, but shall not include Home Child Care.

The *Child Care and Early Years Act* defines a Child Care Centre as follows:

"child care centre" means a premises operated by a person licensed under this Act to operate a child care centre at the premises; ("centre de garde")

### **Departmental and Agency Comments**

June 3, 2019 - Director of Operations, Parks and Facilities

1. No concerns.

June 7, 2019 - Director of Engineering, Water and Wastewater

1. No comment.

### **ANALYSIS:**

Section 45 (2) of the *Planning Act* provides a number of additional powers to the Committee of Adjustment in addition to those to grant variances under 45 (1) of the Act. Section 45(2) also grants the Committee the power to permit the use of any land, building or structure for any purpose that, in the opinion of the Committee, conforms to the uses permitted in the by-law. In determining whether to permit a use the test is one of similarity between the uses and compatibility with the permitted uses under the by-law. The principles to be applied are whether the proposal is desirable for the development of the property and whether its impact on the surrounding uses is adverse.

The *Child Care and Early Years Act* defines 'child care' as "the provision of temporary care for or supervision of children in any circumstance other than in exempt circumstances." The Highway Commercial Zone currently permits several uses that would fit within the Act's

definition, such as a Commercial School and a Campground, which both may provide temporary care for children and serve educational purposes. As such, the additional use of a Child Care Centre on the premise is not anticipated to introduce activities that are not already permitted within the Highway Commercial Zone. The Child Care Centre is proposed to be fronting onto Sundowner Road, a local road, and situated away from Balm Beach Road East, an arterial Road, to further protect the sensitive nature of the use. The Child Care Centre use is not anticipated to have a negative impact on the surrounding lands.

A Site Plan Application has been submitted to the municipality with the location of the Child Care Centre clearly identified. As part of the approval process, Staff will ensure sufficient on-site services (such as traffic safety, parking, drop off area) and adequate facilities are included to support the use. The Child Care Centre is required to be licensed under The *Child Care and Early Years Act* by the Ministry of Education which will further ensure the adequacy of the facilities prior to its operation. The Child Care Centre is desirable and compatible with the proposed mixed-use development and can serve employees of the surrounding commercial areas and families in the community.

The Official Plan identifies the subject property as a location for employment uses in the Town. Commercial and Institutional uses, such as a Child Care Centre, is permitted in the Employment Area and should be located to have a “regard for the compatibility of the use in terms of location and surrounding and adjacent uses.” As previously described, Staff is of the opinion that the permitted use is compatible with the proposed development, the surrounding lands and it will not interfere with other proposed uses. As such, the proposed Variance will maintain the general intent and purpose of the Official Plan.

### **CONCLUSIONS:**

Based on a review of the Variances requested, it is the opinion of Planning and Building Services that Minor Variance Application A.14/2019. The proposed Variances represent appropriate development and good planning. Therefore, Planning and Building Services are supportive of the Application.

1. That the Applicant obtains Site Plan Approval within one (1) year of the date of Committee decision.
2. That the Child Care Centre use be fixed to the general size and extent as shown on the Site Plan attached to Staff Report PL-2019-45 dated May 30, 2019 and shown on Attachment #2.

### **FINANCIAL IMPACT:**

There is no direct financial impact of this report.

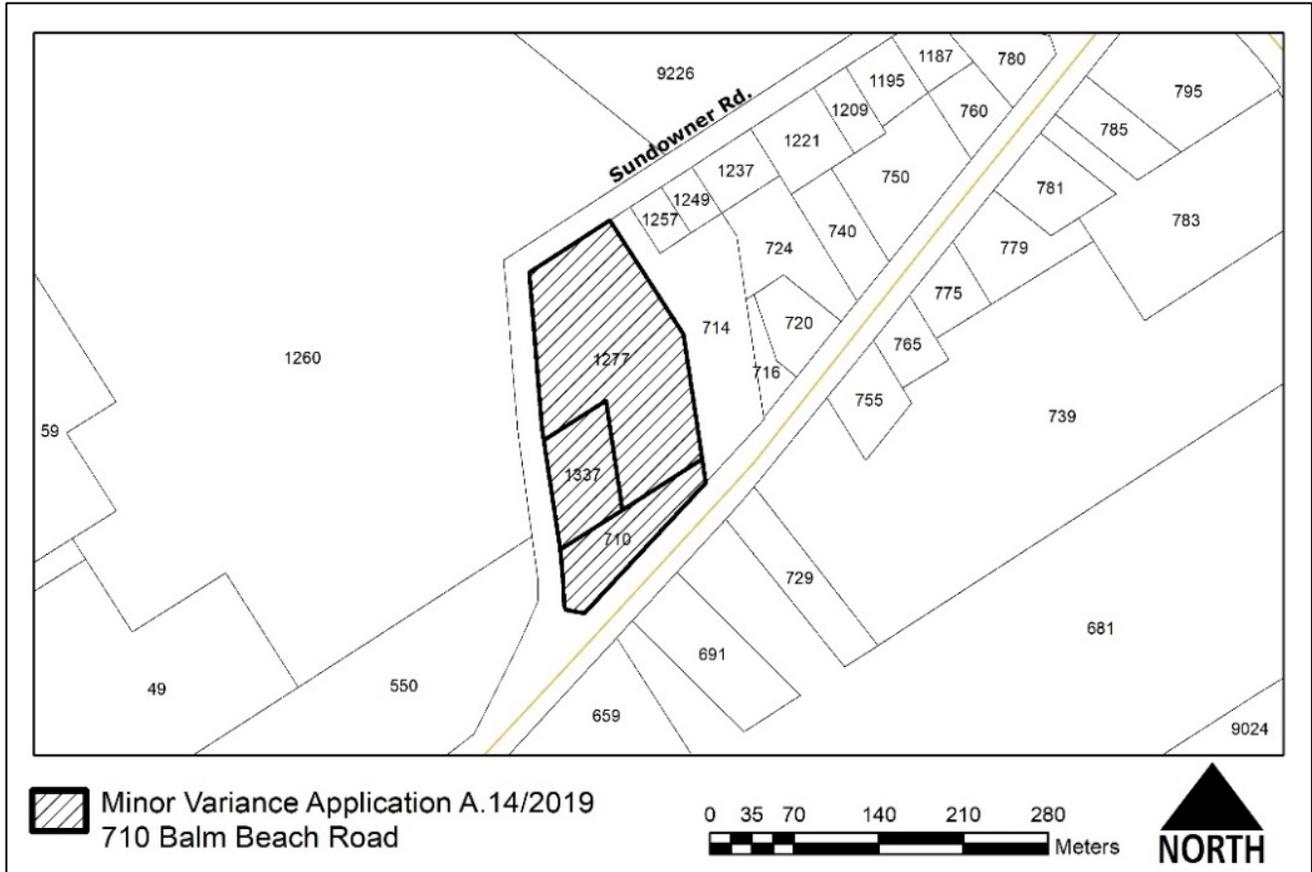
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Attachments

#1: Location Map

#2: Proposed Site Plan

# Attachment #1: Location Map



Attachment #2: Site Plan

