



## STAFF REPORT

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**FUNCTION:** Committee of Adjustment

**CHAIR:** Cindy Tremblay

**DATE:** February 27, 2019

**REPORT NO.:** **PL-2019-20**  
**A.4/2019 – 1170 Marcellus Drive**  
**Minor Variance Application**

### **RECOMMENDATION:**

The Planning and Building Services Department supports the approval of Minor Variance Application A.4/2019 respecting 1170 Marcellus Drive for the following Variance:

- To reduce the Minimum Rear Yard Setback from 11.0 metres to 4.72 metres, a Variance of 6.28 metres

To permit a new Detached Residential Dwelling 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. Kevin Swan on February 26, 2019, for the property known as 1170 Marcellus Drive. The subject property is legally described as Part Lot 111 and 112 on Reference Plan 51R-30379. The subject property is located at the end of Marcellus Drive and on the north side of the cul-de-sac (See Attachment #1: Location Map).

The property is an irregularly shaped lot with a frontage of approximately 32.48 metres on the Marcellus Drive cul-de-sac, a depth of 30.48 metres on the west side and 66.14 metres on the east side. The property has a lot area of approximately 3615 square metres. The property is currently vacant and is serviced by municipal water and private sewage disposal.

## Surrounding Land Uses:

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

### **Proposed Development and Application Request**

The Applicant is proposing to construct a new single detached dwelling with a building footprint of 288 square metres. The proposed dwelling will have a rear yard setback of 4.72 metres, whereas 11.0 metres is required in the Zoning By-law. To permit the dwelling, the Applicant is requesting a reduction of the Minimum Rear Yard Setback from 11.0 metres to 4.72 metres, a Variance of 6.28 metres. A sketch of the proposed new dwelling 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. 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 – R5**, in the Town's Zoning By-law 2004-90, as amended. The permitted uses of the R5 Zone include Accessory Building, Boat Dock, Boat House, Boat Slip, Detached Dwelling Unit, Home Occupation, Public Use and Secondary Unit. The Minimum Rear Yard setback for the R5 zone is 11 metres where as 4.72 metres is being proposed. The proposed dwelling meets all other R5 Zoning provisions.

### **Departmental and Agency Comments**

March 4, 2019 – Director of Engineering, Water and Wastewater  
1. No comment.

## **ANALYSIS:**

The Applicant is proposing to construct a single detached dwelling with a building footprint of 288 square metres. The proposed dwelling will have a rear yard setback of 4.72 metres, whereas 11.0 metres is required in the Zoning By-law. To permit the dwelling, the Applicant is requesting a reduction of the Minimum Rear Yard Setback from 11.0 metres to 4.72 metres, a Variance of 6.28 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 11.0 metres to 4.72 metres is a difference of 6.28 metres. 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 irregular in shape and is generally shallower than the surrounding properties. The Applicant has proposed for the dwelling to be located central to the property to avoid cutting existing mature trees. The property backs onto undeveloped vacant lands that are zoned for rural use. The proposed dwelling will not end up closer to any of the existing residences in the area as a result of the requested variance and will be located in a similar area of the property as the other dwellings located on the Marcellus Drive cul-de-sac. The proposed addition meets all other By-law provisions. Given the above, Staff finds that the requested Variance is minor.

### **Desirability**

The Applicant is requesting the Variance to facilitate the development of the land and to preserve existing vegetation. There is no foreseeable negative impact on the neighbourhood with the proposed Variance, particularly given that the property backs onto vacant, rural land. In addition, the proposed dwelling site is consistent with the dwelling locations for the other lots on the cul-de-sac. As such, it is the opinion of staff that the proposed Variance is a desirable and appropriate use of the property and will not negatively impact the neighbourhood.

### **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 and to create an appropriate relationship of the dwellings to the street and streetscape. As

previously described, the proposed addition meets all other Zoning provisions aside from the rear yard, which backs onto vacant rural land. A 4.72 metre rear yard setback is an appropriate and adequate distance from the neighbouring property. In addition, the variance will ensure that the new dwelling has a consistent location and relationship to the street as the other dwellings on the cul-de-sac. As such, it is the opinion of Staff that 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. Staff finds that it does not disrupt from the sense of neighbourhood and is it appropriate for the development of the last vacant lot on the cul-de-sac. Therefore, it is the opinion of Staff that the application meets the general intent and purpose of the Official Plan.

### **CONCLUSIONS:**

Based on a review of Minor Variance Application A.4/2019, 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:**

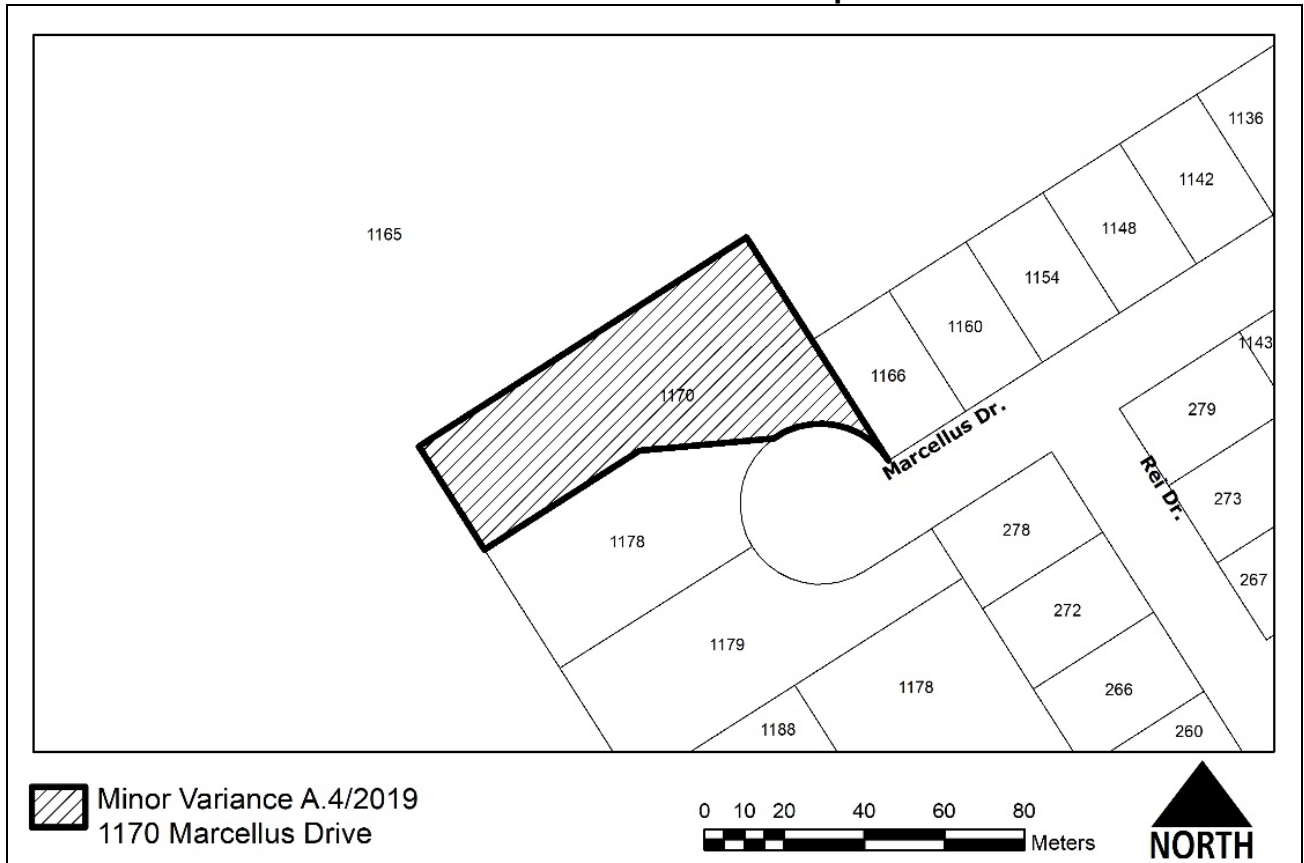
There are no financial impacts as a result of this application.

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

Proposed Variance

