



Staff Report

Report To: Committee of Adjustment

From: Bryan Pearce, Planner

Date: 2021-05-13

Subject: Minor Variance Application D13 01-2021 – Recommendation Report
(Planning Report 2021-17)

Recommendation:

That West Elgin Committee of Adjustment hereby receives the report from Bryan Pearce, Planner, regarding the minor variance application for File D13 01-2021 (Planning Report 2021-17);

And That West Elgin Committee of Adjustment grant Minor Variance D13 01-2021, by obtaining relief from the Municipality of West Elgin Zoning By-law 2015-36, for the following:

- Section 8, Table 8-1, Item 5(a)
 - Southerly side yard width from the minimum required 2 metres for a 2 storey dwelling to the proposed 0.97 metres, recognizing the existing side wall setback of the existing dwelling.
 - Northerly side yard width from the minimum required 2 metres for a 2 storey dwelling, to the proposed 0.58 metres, recognizing the existing side wall setback of the existing dwelling.
- Section 4.29.1(b)
 - Northerly side yard encroachment from the minimum required 0.6 metre setback to the lot line, to the proposed 0.27 metres, recognizing the existing eaves of the existing dwelling.

to permit the construction of the second storey addition to the existing dwelling subject to the following conditions:

1. That the proposed development is substantially in accordance with the Minor Variance D13 01-2021 drawings, as appended to Planning Report, 2017-17.

Purpose:

The purpose of this application is to permit the construction of a second storey addition to the existing single unit dwelling.

The effect of the variance is to seek relief to the Municipality of West Elgin Comprehensive Zoning By-law 2015-36 from the following:

- Section 8, Table 8-1, Item 5(a)
 - Southerly side yard width from the minimum required 2 metres for a 2 storey dwelling to the proposed 0.97 metres, recognizing the existing side wall setback of the existing dwelling.

- Northerly side yard width from the minimum required 2 metres for a 2 storey dwelling, to the proposed 0.58 metres, recognizing the existing side wall setback of the existing dwelling.
- Section 4.29.1(b)
 - Northerly side yard encroachment from the minimum required 0.6 metre setback to the lot line, to the proposed 0.27 metres, recognizing the existing eaves of the existing dwelling.

The Owner of the subject lands is Stefan Deszi and Crystal Forth, who has authorized the Applicant, Stefan Deszi on the minor variance application.

The subject lands are situated on the west side of Graham Road within the community of West Lorne being East Part Lot 78, Plan 199 and known municipally as 166 Graham Road, as shown in Figure One.



Background:

The subject lands have an area of 809.43 square metres (9035.55 square feet) in area, with 20.12 metres (66 feet) of frontage along Graham Road and a depth of 40.23 metres (132 feet), with an existing single unit dwelling with municipal water and municipal sewer services. The subject lands meet all other provisions of the Zoning By-law.

Financial Implications:

The proponent has submitted the minor variance application fee in accordance with the Municipality's Fees and Charges By-law, pursuant to Section 69 of the *Planning Act*. Therefore, there is no financial implications with this application, as the fee is to take in account staff's time, based on the Fees set by West Elgin Council.

Policies/Legislation:

Planning Policy Review:

Provincial Policy Statement

Under Section 3(5) of the *Planning Act*, the Township "shall be consistent with" matters of provincial interest as set out in the Provincial Policy Statements (PPS).

Section 1.1.3 of the PPS states that settlement areas shall be the focus of growth and development.

This proposed Minor Variance is consistent with the PPS.

County of Elgin Official Plan

The subject lands are designated Tier 1 Settlement Area as shown on Schedule 'A' Land Use in the County of Elgin Official Plan (CEOP). In the Tier 1 Settlement Area designation, residential use such as a single detached dwelling use is permitted.

Therefore, this proposed Minor Variance conforms to the CEOP.

Four Tests of the Minor Variance:

Section 45(1) of the *Planning Act* gives the authority of granting minor relief from the provisions of the Zoning By-law to the Committee of Adjustment. Such relief can only be granted if the Minor Variance passes four tests. If the Committee is not satisfied on all four tests, then the Minor Variance cannot be approved.

1. *Does the variance maintain the intent and purpose of the Municipality of West Elgin Official Plan?*

Yes. The subject lands are designated Residential on Schedule 'D' of the Municipality of West Elgin Official Plan. A single detached dwelling is permitted in the 'Residential' designation. The proposed reduced minimum side yards and encroachment does not contravene the Official Plan policies.

2. *Does the variance maintain the intent and purpose of the Municipality of West Elgin Zoning By-law?*

Yes. The subject lands are zoned Residential First Density (R1) Zone in the Municipality of West Elgin Zoning By-law 2015-36, Schedule C, Map 6. A single unit dwelling is a permitted use in the First Density (R1) Zone. With the exception of the proposed reduced minimum side yards and encroachment, the application complies with all remaining zoning provisions. The proposed second storey addition of the existing dwelling would be at the same setback as the existing dwelling, with 30 centimetre (12 inch) eaves, creating a portion of the dwelling to be non-compliant with the Zoning By-law.

3. *Is the variance requested desirable for the appropriate and orderly development and use of the lands and buildings?*

Yes. The variance will enable the owner to construct a second storey addition to the existing single unit dwelling with the same setbacks, allowing for a second storey to be added to the dwelling. Due to the existing location of the dwelling, the proposed addition is unable to meet the southerly side yard setback, northerly side yard setback and northerly side yard encroachment setback from the lot line. The variance will not impede the function of the lot and still provides for side yard access to the rear yard and is fully contained within the lot.

4. Is the variance minor in nature?

Yes. The meaning of 'minor' is not based on a specific number, where a difference of a number of feet determines whether or not the development is acceptable. It is more appropriate to base this test on the degree of potential impact on neighbouring property owners; the environment; and the municipal, County, or provincial functions.

The impact from the proposed variance is negligible with respect to the environment, Township functions and surrounding property owners.

Circulation of the Application:

The application was circulated to the applicable Municipal Departments, Commenting Agencies and neighboring property owners within 60 metres of the subject lands on April 29, 2021, 14 days prior to the public hearing (minimum 10 days required).

Municipal Department Comments

All comments received from Municipal Department's indicated they had no concerns on the application.

Agency Comments

Lower Thames Valley Conservation Authority, in their May 3, 2021 letter, noted the following:

- After reviewing our files and mapping, staff determined that the property in question is not subject to the Authority's regulations.
- The lands are not subject to flooding of a general nature and as such structures are not required to be flood proofed. However, the flood proofing of structures for the purposes of prevention of flood damage from local, overland drainage waters is always recommended.

No further comments were received from applicable commenting agencies at time of writing of this report.

Public Comments

At the time of submission of this report, no comments from the public have been received related to the Minor Variance.

Summary/Conclusion:

The application has been assessed for appropriateness with regard to existing policy and the impact of the proposal on the surrounding land uses. The application maintains the intent and purpose of the Official Plan and Zoning By-law, desirable for the appropriate and orderly development and use of the lands and buildings and is minor in nature; and therefore the minor variance application satisfies the four tests pursuant to Section 45(1) of the *Planning Act*, and constitutes good land use planning.

Planning Staff recommends that the request for Minor Variance be conditionally approved, subject to no concerns being raised through any oral and written submissions being received since the writing of this report and at the public hearing.

Once a Committee of Adjustment decision is made, Notice will be sent to those who have requested a copy and/or attended the public hearing.

There will be a 20 day appeal period from the Decision in which the Notice will be sent out within 10 days of the Decision. Any appeals received by the Municipality of West Elgin will be forwarded to the Local Planning Appeal Tribunal for a hearing, in accordance with the *Planning Act*.

Respectfully Submitted,

Bryan Pearce, HBA, CPT, MCIP, RPP
Planner
Municipality of West Elgin

Report Approval Details

Document Title:	Minor Variance Application D13 01-2021 - Recommendation Report - 2021-17-Planning.docx
Attachments:	- Appendix One - Planning Report 2021-17 - Minor Variance Application Drawings - D13 01-2021.pdf
Final Approval Date:	May 11, 2021

This report and all of its attachments were approved and signed as outlined below:

Jana Nethercott