

# EVALUATION REPORT

PLANNING DEPARTMENT

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To: Chair and Members of the Committee of Adjustment, Municipality of North Middlesex

From: Christie Kent, RPP, Planner

Date: February 6, 2019

**Re: Application for Minor Variance MV-1-2019  
Part 1, RP33R19140; Part of Lot 15, Concession 2  
(Geographic Township of East Williams)  
26049 Nairn Road  
Owner: Michael VanderMeer**

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## **RECOMMENDATION**

THAT Application for Minor Variance MV-1-2019, submitted by Michael VanderMeer, for relief from Section 7A.2(j) of the North Middlesex Zoning By-law in order to facilitate the construction of an accessory building with a maximum height of 8.0 m (26.2 ft), be **CONDITIONALLY GRANTED**.

AND THAT Minor Variance MV-1-2019 be subject to the following condition:

- That the owner obtain a permit from the Ausable Bayfield Conservation Authority under O.Reg 147/06.

AND FURTHER THAT the reasons for granting Minor Variance MV-1-2019 include:

- The request complies with the general intent of the Municipality of North Middlesex Official Plan;
- The request complies with the general intent of the Municipality of North Middlesex Zoning By-law;
- The request is considered minor in nature; and
- The request represents the appropriate use and development of the lands.

## **BACKGROUND**

The purpose and effect of Application for Minor Variance MV-1-2019 is to seek relief from the North Middlesex Zoning By-law in order to facilitate the construction of a 724.6 m<sup>2</sup> (7,800 sq. ft.) accessory building with mezzanine area. Specifically, the applicant is seeking relief from the requirements of Section 7A.2(j) of the North Middlesex Zoning By-law to permit an accessory building with a maximum height of 8.0 m (26.2 ft), whereas the provisions of the Zoning By-law indicate a maximum accessory building height of 5.5 m (18 ft).

Planning staff note that the submitted application requested a building height of 7.5 m (24.6 ft), however upon further review, planning and building staff recommended that the requested height be revised to 8.0 m (26.2 ft). It is further noted that in this case, per the definition of the Municipality's Zoning By-law, the "height" of the accessory building shall be measured as the vertical distance from the finished established grade to the mean level between eaves and ridge of the pitched roof.

The applicant has advised that the proposed accessory building is to be used in part for storage related to a home industry, including overnight parking of up to three commercial vehicles, as well as for personal storage of recreational vehicles. The applicant has indicated that the increased building height for the proposed accessory building is required to accommodate larger garage doors.

The subject lands are located on the west side of Nairn Road (County Road 17), south of Argyle Street. Surrounding land uses are predominantly agricultural and the subject lands are wholly contained within an area regulated by the Ausable Bayfield Conservation Authority. The subject lands comprise an area of 0.99 ha (2.45 ac) and presently contain a single detached residential dwelling and accessory building. The applicant has advised that the existing accessory building is to be demolished should the subject variance be granted by the Committee of Adjustment.

A Key Map illustrating the subject property, the extent of the regulated area and the approximately location of the proposed accessory building is attached to this report.

### **Policy and Regulation Background**

The subject lands are located within the 'Agricultural Area' land use designation of the North Middlesex Official Plan and within the 'Agricultural Small Holding (AG1) Zone' of the North Middlesex Zoning By-law.

Section 7A.2 outlines zone restrictions for permitted uses within the 'Agricultural Small Holding (AG1) Zone'. Section 7A.2(j) indicates that the maximum building height for an accessory building shall be 5.5 m (18 ft).

### **ANALYSIS**

Section 45 of the Planning Act allows a municipality to grant a minor variance to a Zoning By-law based on four tests, as follows:

**1. Is the variance considered minor in nature? YES**

It is the opinion of staff that the requested relief to the maximum permitted height of an accessory building can be considered minor in nature. The proposed height of the accessory building is approximately 2.5 m (8.2 ft) greater than what is permitted in the Municipality's Zoning By-law. The location of the proposed accessory building is to be at least 400 m (1,312 ft) from the closest neighbouring dwelling and restrictive zoning prohibits new residential development on the adjacent farmland. Planning staff note that the interpretation of what is minor is not necessarily just based on the extent to which the Zoning By-law is varied, but rather, it is also based on the impact and effect of the proposed variance. Planning

staff do not anticipate negative impacts to surrounding land uses resulting from the increased height of the proposed accessory building.

**2. Is the variance an appropriate use of the land? YES**

Surrounding land uses are predominately agricultural in nature. While the proposed accessory building is of a significant size, it is the opinion of planning staff that the proposed building does not exceed the allowable lot coverage, being 10% of the lot area. The proposed accessory building would not be out of character with the area and is therefore an appropriate use of the land.

**3. Does the variance maintain the intent of the Official Plan? YES**

The development of an accessory building maintains the intent and purpose of the Official Plan.

**4. Does the variance maintain the intent of the Zoning By-law? YES**

The intent of restricting the height of accessory buildings is to ensure that accessory buildings and uses remain subordinate to the main use of the property, which in this case is residential with a home industry. The proposed height of the accessory building is not anticipated to increase the usability of the building beyond what would reasonably be considered accessory to a residential use and home industry on a large residential lot in an agricultural area.

Planning staff note that, as indicated on the attached Key Map, the subject property is located within an area regulated by the Ausable Bayfield Conservation Authority. The Conservation Authority has indicated that they should be contacted regarding the permitting process under O. Reg 147/06.

In addition to the above, planning staff note that the subject property is not in compliance with the Municipality's Tidy Yard By-law with respect to outside storage. It is the expectation of the Municipality that the property be brought into compliance with the applicable by-law within 6 months of completion of the construction of the proposed accessory building.

Based on the above analysis, Application for Minor Variance MV-1-2019 appears to satisfy the requirements for a minor variance as set out in the Planning Act.

**CONSULTATION**

Notice of the application has been circulated to agencies, as well as property owners in accordance to the requirements of the Planning Act.

The Municipality's Public Works Department offered no comments with respect to this Application for Minor Variance.

The Ausable Bayfield Conservation Authority has indicated it does not have any natural hazard or natural heritage concerns with the requested variance, however the applicant should contact the Conservation Authority for a permit under O. Reg 147/06.

At the time of writing the subject report, no concerns or comments had been received from the general public.

**ATTACHMENTS**

Key Map – Overview of the Subject Property with Approximate Location of Proposed Accessory Building

# APPLICATION FOR MINOR VARIANCE: MV-1-2019

Owner: Michael VanderMeer

26049 Nairn Road  
Part 1, RP33R19140; Part of Lot 15, Concession 2  
Municipality of North Middlesex (East Williams)

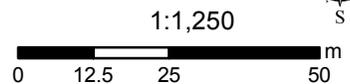


Municipality of NORTH MIDDLESEX



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-  SUBJECT PROPERTY
-  CA REGULATED AREA



Disclaimer: This map is for illustrative purposes only. Do not rely on it as being a precise indicator of routes, locations of features, nor as a guide to navigation.