

PC.11

Shell Type = use for Advice to OMB re OPA referrals/ZBL appeals

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TO:	CHAIR AND MEMBERS PLANNING AND ENVIRONMENT COMMITTEE
FROM:	JOHN M. FLEMING DIRECTOR OF LAND USE PLANNING AND CITY PLANNER
SUBJECT:	APPLICATION BY: NICOLAS SCHIDOWKA 7092 LONGWOODS ROAD MEETING ON DECEMBER 12, 2011

RECOMMENDATION

That, on the recommendation of the Director of Land Use Planning and City Planner, in response to the letter of appeal to the Ontario Municipal Board, submitted by Robert Walpole on behalf of Nicolas Schidowka, relating to the minor variance application A.072/11 concerning 7092 Longwoods Road, the Ontario Municipal Board **BE ADVISED** that the Municipal Council supports the Committee of Adjustment decision to refuse the minor variance and that the City Solicitor and Director of Land Use Planning and City Planner **BE DIRECTED** to provide legal and planning representation at the Ontario Municipal Board Hearing to support the Committee of Adjustment's decision.

BACKGROUND

On July 25, 2011, the City of London Committee of Adjustment refused the minor variance application by Nicolas Schidowka to construct a second dwelling unit (semi-detached dwelling) on the main floor, whereas dwelling units are permitted on the second floor only, and to permit a total driveway width of 14.2m(46.5') whereas 6.0m(19.6') maximum is permitted. (See Appendix A)

Planning Staff provided the following comments to the Committee of Adjustment on July 18, 2011.

EVALUATION

In order for this application to be acceptable as a minor variance under the provisions of Section 45 of the Planning Act, the following requirements must be met:

- 1) *Is the general intent and purpose of the Official Plan maintained?*
- 2) *Is the general intent and purpose of the Zoning By-law maintained?*
- 3) *Is the variance minor in nature? and*
- 4) *Is the variance desirable for the appropriate development or use of the land, building or structure?*

Official Plan

The Official Plan designation is Multi Family Medium Density Residential which permits the use.

Zoning

*The lands are zoned Holding Arterial Commercial (h-17*AC2). The Z-1 zoning By-law states: In addition to the uses provided for under the AC zone variation an expanded range of uses may be permitted at appropriate locations through the use of other zone variations. New "at grade" residential uses, which are also provided for under the Official Plan, are regulated by compounding with appropriate residential zones in this By-law.*

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The structure exists as a single detached dwelling. The Multi Family Medium Density Residential designation could allow for intensification of the site for residential uses. The Zoning By-law Z.-1 requires that at grade residential uses require the Arterial Commercial zone to be combined with an appropriate residential zone. The application is to construct an additional dwelling unit to be attached to the existing single detached dwelling to create a new semi detached dwelling on the property. New at grade dwellings are a prohibited use in the Arterial Commercial (AC2) Zone. An amendment to the Z-1 By-law would be required to add a zone that would permit the proposed new use.

A Planning Impact Analysis is required as per section 3.8 of the Official Plan to assess the compatibility with the surrounding uses, the size and shape of the lot, and the location of vehicular access that is in compliance with the City of London’s Official Plan policies.

The Official Plan Multi Family Medium Density Residential designation supports residential intensification and this site may be an appropriate location for intensification. The existing Arterial Commercial (AC2) zone specifically requires that new at grade residential uses in the Arterial Commercial zone be combined with an appropriate residential zone. A Zoning By-law amendment would be required to permit the construction of new semi detached dwelling on this property.

The application does not conform to the Zoning By-law. It is not minor in nature and should be refused. The Planning and Development Department recommends this application be refused.

The applicant appealed the refusal of the minor variance. (Appendix B)

The applicant was advised to submit a proposal summary and start the process to submit a complete application for a Zoning Amendment. Planning Staff maintains its position that the proposed minor variance be refused.

The hearing date for this appeal has been scheduled for January 13, 2012.

PREPARED BY:	SUBMITTED BY:
ALANNA RILEY PLANNER – COMMUNITY PLANNING AND URBAN DESIGN	J. YANCHULA, MCIP, RPP MANAGER OF COMMUNITY PLANNING AND URBAN DESIGN
RECOMMENDED BY:	
J. FLEMING, MCIP, RPP DIRECTOR OF LAND USE PLANNING AND CITY PLANNER	

November 29, 2011
AR/ar
“Attach”

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APPENDIX "A"



City of London
Note: The last day for appealing this Decision is at 4:30 p.m. on **AUGUST 15, 2011**

DECISION
THE COMMITTEE OF ADJUSTMENT FOR THE CITY OF LONDON
WITH REASONS REGARDING APPLICATION FOR MINOR VARIANCE
The Planning Act R.S.O. 1990, Section 45(8) & (10)

REGARDING AN APPLICATION BY: **NICHOLAS SCHIDOWKA – A.072/11**

ADDRESS: **7092 LONGWOODS ROAD**
LEGAL: **PT LOT 71 CON WTR, PARTS 1 AND 2 RP 33R-8831**

PURPOSE OF APPLICATION: **REQUEST TO CONSTRUCT A SECOND DWELLING UNIT (SEMI-DETACHED DWELLING) ON THE MAIN FLOOR WHEREAS DWELLING UNITS ARE PERMITTED ON THE SECOND FLOOR ONLY AND TO PERMIT A TOTAL DRIVEWAY WIDTH OF 14.2M (46.5') WHEREAS 6.0M (19.6') MAXIMUM IS PERMITTED.**

WE, the undersigned, in making the Decision regarding this Application, have considered whether or not the Variance requested was minor and desirable for the appropriate development and use of the land, and that the general intent and purpose of Zoning By-Law Z- and the Official Plan will be maintained, or in the case of a change, in a use of property which is lawfully non-conforming under the By-Law as to whether or not this Application has met the requirements of Section 45 (2) of The Planning Act R.S.O. 1990.

CONCUR in the following Decision and Reasons for the Decision made on the **JULY 25, 2011**

DECISION: GRANTED DENIED APPROVED WITH CONDITIONS

For Reasons & Conditions see Schedule "A" on reverse.

Maria Mendes

Gina Barber

Colin Hendry

Steve Polhill

Jeffrey Preston

CERTIFICATION
THE PLANNING ACT, R.S.O. 1990, SECTION 45 (10)

I, **PETER SIKIC**, Secretary/Treasurer of the Committee of Adjustment for the City of London, County of Middlesex, certify that the above is a true copy of the Decision of the Committee with respect to the Application recorded therein.

PETER SIKIC, Secretary Treasurer

PLANNING DIVISION

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City of London Schedule "A"

Minor Variance Application No. **A.072/11**

Reasons for Decision:

- The requested minor variance ^{does not} ~~meets~~ the general intent and purpose of the Zoning By-law; *Mr*
- The requested minor variance ^{does not} ~~meets~~ the general intent and purpose of the Official Plan; *Mr*
- The requested minor variance is minor in nature; *not Mr*
- The requested minor variance is desirable ^{not} ~~for~~ the appropriate developments or use of the land, building or structure. *Mr*

Subject to the following condition/s:

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APPENDIX "B"



Environment and Land Tribunals Ontario
Ontario Municipal Board
655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5
TEL: (416) 212-6349 or Toll Free: 1-866-448-2248
FAX: (416) 326-5370
www.elt.o.gov.on.ca

MUNICIPAL SUBMISSION FORM (R3)
PLANNING ACT
MINOR VARIANCE

Reference Number (OMB Office Use Only):

Material and information is to be forwarded to the Ontario Municipal Board by the Secretary-Treasurer under the following subsection of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended. Please print clearly throughout the submission form.

Part 1: Appeal Type

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	<input checked="" type="checkbox"/> Appeal against a decision of the Committee of Adjustment to approve or refuse the application	45(12)

Municipality: City of London Municipal File Number: A- 072/11
Upper Tier: N/A

Part 2: Municipal Contact Information

First Name: Peter Last Name: Sikic
Professional Title: Minor Variance Co-ordinator
E-mail Address: psikic@london.ca
By providing an e-mail address you agree to receive communications from the OMB by e-mail.
Telephone #: 519 661-2500 ext. 4988 Fax #: 519 661-5397
Mailing Address: 206 Dundas Street P.O. Box 5035 London ON
Street Address City/Town
ON N6A 4L9
Province Postal Code

Part 3: Location Information

Address and/or Legal Description of property subject to the appeal:

Part 4: Related Matters

(a) Is this variance appeal connected with a consent application? YES NO
If yes, has a decision on the consent application been appealed to the Board? YES NO
Consent submission: B- N/A O.M.B. File No.: N/A
If the decision on the consent application has not been appealed to the Board, please enter the date on which the consent approval lapses: N/A
(b) Other matters at municipality or Board or required to be filed?: N/A

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Part 5: Minor Variance Information

- Variance from Zoning By-law Number: Z-1
- Does the by-law seeking to be varied have conditions? YES NO
- DATE APPLICATION SUBMITTED TO MUNICIPALITY: June 20, 2011
- Give a brief outline of the purpose of the minor variance and the nature of the issues raised in the appeal(s):

See attached.

Part 6: Scheduling Information

How many days do you estimate are needed for hearing this appeal? 7 Number of days
 How many witnesses do you expect to have at the hearing? 1 Number of witnesses
 Describe witness(es)' area of expertise. Planner

- Do you believe this matter would benefit from mediation? YES NO
- If yes, do you believe all parties would consent to participating in mediation? YES NO
(Mediation is generally scheduled only when all parties agree to participate)
- Do you believe this matter would benefit from a prehearing conference? YES NO
(Prehearing conferences are generally not scheduled for variances or consents)
- If yes, why? _____

Part 7: Municipal Representative Information (Legal or Planning) Person attending OMB hearing

First Name: Jim Last Name: Yarchuk
 Company Name: City of London
 Professional Title: Manager Community Planning & Urban Design
 E-mail Address: jyarchuk@london.ca
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 519 661-2500 ext. 7544 Alternate Telephone #: _____
 Fax #: 519 661-5397

Mailing Address: 206 Dundas Street P.O. Box 5035 London
Street Address Apt/Suite/Unit# City/Town
ON N6A 4L9
Province Country (if not Canada) Postal Code

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Part 8: Required Documentation (Please check boxes to indicate document included in filing)

I confirm that I have attached the following items to this form.

Signature of Secretary-Treasurer: _____ Date: September 13, 2011

The following material must be attached to this form where applicable, in the order which it is listed:

- Original or true copy of each notice of appeal received and reasons for appeal **with indication of the date on which each notice was filed**. Attach a typed list of the names, addresses and telephone numbers of all appellants.
- Board fee paid by each appellant made payable to the Minister of Finance. The appeal will not be processed without this fee being paid by each appellant. Ensure that cheque/fee payment is affixed to each appeal.
- Original or certified copy of the application for Minor Variance.
- Decision of the Committee of Adjustment with reasons and the date the decision was made.
- Last date for filing notice of appeal to Secretary-Treasurer.
- Authorization, if application made by other than the owner.
- Minutes of Committee of Adjustment hearing (in written/printed format).
- Name and addresses of all legal counsel and all persons, officials and agencies who were sent a copy of the Committee's decision and of those who requested to receive notice from the Board.
- All plans and sketches considered by the Committee.
- A copy of any planning report considered by the Committee, if applicable.
- Original or a copy of all written submissions and comments received by the Committee from any persons, officials and agencies.
- Sworn declaration by the Secretary-Treasurer of compliance with the requirements for giving notice of the Committee's decision under subsection 45(10) of the *Planning Act*.
- Copy of relevant extracts from the Official Plan.
- Copy of relevant extracts from the Zoning By-law.