



## COMMITTEE OF ADJUSTMENT Planning Staff Report

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**Meeting date:** November 7, 2024  
**Department:** Building, By-law and Planning  
**Report No.:** BBP-2024-131  
**Submitted by:** Erin Besch, Planner  
**Reviewed by:** Tim Williams, Manager of Planning, County of Middlesex  
**Approved by:** Jake DeRidder, Senior Development Coordinator/Acting Secretary-Treasurer  
**SUBJECT:** **Application for Minor Variance (A26-2024) – 22695 Troops Road  
Owners: Rachel & John Traczuk Agents: Meg & Robert Johnston**

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**RECOMMENDATION: THAT: Application for Minor Variance A26-2024 be approved.**

### **PURPOSE:**

The purpose of the minor variance application is to seek relief from Section 9.3(6) of the Zoning By-law to permit a total lot coverage of 20%, whereas a maximum of 10% is permitted within the R5-6 zone. The application also seeks relief from Section 9.3(4) to permit a side yard width of 3.5 m (11.5 ft), whereas a minimum of 5 m (16.4 ft) is required in the R5-6 zone. Finally, the application seeks relief from Section 4.23(7)(i) to permit a driveway width of 10.2 m (33.5 ft), whereas a maximum of 8 m (26.3 ft) is permitted for a residential zone.

The application will facilitate the construction of a 256.8 m<sup>2</sup> (2,764.2 ft<sup>2</sup>) single detached dwelling with access onto Troops Road. The subject lands are within the 'Rural Residential' designation of the Official Plan and a site-specific 'Rural Residential (R5-6) Zone' of the Zoning By-law.

### **BACKGROUND:**

The subject property is located on the south side of Troops Road, west of Parkhouse Drive and south of Glendon Drive (see Location Map). The lands were previously approved for severance from the larger agricultural parcel at 22661 Troops Road on October 7, 2021 (File No. B5-B8-2021). The consent application facilitated the creation of four lots to be developed for residential purposes. As a condition of approval, the lands were rezoned (File No. ZBA 13-2021) in November 2021 to a site-specific 'Rural Residential (R5-6) Zone', which recognized the reduced lot frontage and lot area of the newly created lots.

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The lands were also subject to a Minor Variance application (File No. A-9-2022) on May 26, 2022, which was approved to permit a maximum lot coverage of 15% and a front yard depth of 12 m (39.4 ft). Staff note that if the subject application is approved, it would supersede the previous minor variance application.

The property is approximately 2,043.87 m<sup>2</sup> (22,000 ft<sup>2</sup>) in area with approximately 33.5 m (109.9 ft) of frontage along Troops Road and is currently vacant. The applicant is proposing a lot coverage of 386.1 m<sup>2</sup> (4,155.95 ft<sup>2</sup>), which includes a one-storey dwelling with an attached garage and covered porch. This represents approximately 18.9% lot coverage, which the applicants are requesting to increase to 20% to allow a garden shed in the future. The applicant is also proposing a minimum side yard width of 3.5 metres which will allow for the dwelling to be adequately setback 7.14 m (23.4 ft) from the northwest CN rail line through the reduction of the south side yard. The applicant is also proposing a maximum driveway width of 10.2 metres to allow for the parking of multiple personal vehicles and adequate access to the garage from the street line.

The property will be serviced by a private well and septic system. The applicant has advised that the well will be located along the front property line at Troops Road. In support of the application, the applicant has submitted a drawing of the proposed septic system and preliminary septic review report, which was prepared by a qualified septic engineer. This plan demonstrates the capability of the lot to accommodate the additional lot coverage requested with an appropriate septic design.

Surrounding land uses are predominantly agricultural and rural residential. A CN rail line is located approximately 23 metres northwest of the subject lands.

#### **POLICY AND REGULATION BACKGROUND:**

The lands are located within a “Rural Area” as defined within the Provincial Planning Statement and “Agricultural Area” as defined in the County of Middlesex Official Plan and locally, within the “Rural Residential” designation of the Strathroy-Caradoc Official Plan. The subject lands are located within the ‘Rural Residential (R5-6) Zone’ of the Strathroy-Caradoc Zoning By-law.

The Strathroy-Caradoc Official Plan (SCOP) states that development within the ‘Rural Residential’ designation shall be for low-density, single unit detached dwellings on relatively large lots through infilling or rounding out. Development proposals are to be evaluated based on the following criteria: adequacy of the proposed water supply, adequacy of the proposed sanitary waste disposal; adequacy of the soils and drainage; adequacy of the vehicular access; natural amenity and scenic quality; environmental sensitivity, and; appropriateness of the lot frontage, depth and size (s.5.3.6.2).

With respect to the Zoning By-law, the “Rural Residential (R5-6) Zone” permits single detached dwellings and secondary suites on the subject lands and requires a minimum lot area of 2000m<sup>2</sup>, minimum lot frontage of 33 metres, minimum front yard depth of 15 metres, maximum lot coverage of 15%, minimum side yard width of 5 metres, minimum rear yard depth of 15 metres, minimum landscaped open space of 70%, and maximum driveway width of 8 metres.

Section 4.23(7)(i) of the Zoning By-law states that a residential lot with a frontage of 18 m and above is allowed one driveway with a maximum width of 8 m (26.3 ft).

#### **CONSULTATION:**

The application has been circulated to agencies and the public in accordance with the provisions of the *Planning Act*.

The Senior Development Coordinator advised of no concerns related to the width of the access onto Troops Road.

The Chief Building Official advised of no concerns with the proposed sanitary system.

CN Rail advised of the following comments:

It is noted that the subject site is within 300 meters of CN's Main Line. CN has concerns of developing/densifying residential uses in proximity to railway operations. Development of sensitive uses in proximity to railway operations cultivates an environment in which land use incompatibility issues are exacerbated. The Guidelines for New Development in Proximity to Railway Operations reinforce the safety and well-being of any existing and future occupants of the area. Please refer to these guidelines for the development of sensitive uses in proximity to railway operations. These policies have been developed by the Railway Association of Canada and the Federation of Canadian Municipalities. CN encourages the municipality to pursue the implementation of the following criteria as conditions of an eventual project approval:

- Safety setback of principal buildings from the railway rights-of-way to be a minimum of 30 metres in conjunction with a safety berm. The safety berm shall be adjoining and parallel to the railway rights-of-way with returns at the ends, 2.5 metres above grade at the property line, with side slopes not steeper than 2.5 to 1.
- The Owner shall engage a consultant to undertake an analysis of noise. Subject to the review of the noise report, the Railway may consider other measures recommended by an approved Noise Consultant.
- Ground-borne vibration transmission to be evaluated in a report through site testing to determine if dwellings within 75 metres of the railway rights-of-way will be impacted by vibration conditions in excess of 0.14 mm/sec RMS between 4 Hz and 200 Hz. The monitoring system should be capable of measuring frequencies between 4 Hz and 200 Hz,  $\pm 3$  dB with an RMS averaging time constant of 1 second. If in excess, isolation measures will be required to ensure living areas do not exceed 0.14 mm/sec RMS on and above the first floor of the dwelling.
- The following clause should be inserted in all development agreements, offers to purchase, and agreements of Purchase and Sale or Lease of each dwelling unit within 300m of the railway right-of-way:

*"Warning: Canadian National Railway Company or its assigns or successors in interest has or have a right-of-way within 300 metres from the land the subject hereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way."*

- The Owner shall through restrictive covenants to be registered on title and all agreements of purchase and sale or lease provide notice to the public that the noise and vibration isolation measures implemented are not to be tampered with or altered and further that the Owner shall have sole responsibility for and shall maintain these measures to the satisfaction of CN.

- The Owner shall be required to grant CN an environmental easement for operational noise and vibration emissions, registered against the subject property in favour of CN.

## **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. Are the variances considered minor in nature? YES**

With respect to the requested variance to permit a maximum lot coverage of 20%, planning staff are satisfied that the additional 10% will not impact the usability of the property as it has been demonstrated that the lot can accommodate a septic system and private well that have the capacity to service the size of the single-storey dwelling. Therefore, staff are satisfied that the variance is minor.

Concerning the requested variance to permit a minimum side yard width of 3.5 metres, this 1.5 metre reduction is, in this case, considered minor in nature, as the setback will maintain sufficient spacing for maintenance and water runoff management, as well as continue to maintain setback to the adjacent dwelling for privacy reasons. Therefore, staff are satisfied that the variance is minor.

It is staff's opinion that the proposed 10.2 metre driveway width is minor in nature, as it will allow the property owners to accommodate the parking of their vehicles and will not increase any public safety concerns regarding both vehicle and pedestrian traffic on this dead-end road. Therefore, staff are satisfied that the variance is minor.

### **2. Are the variances an appropriate use of the land? YES**

The proposed change to lot coverage is not anticipated to have an effect on how the subject lands will function as a rural residential property, nor how they conform to the general character of the area, being a mix of one- and two-storey dwellings on a rural road. The applicants have demonstrated the ability of the lot to accommodate private servicing, and the location of the proposed dwelling will provide for adequate area on the lot for maintenance, grading/drainage, and amenity space. The proposed change to side yard setbacks will still provide access to the rear yard while being sufficiently setback from the CN rail line and providing privacy for the neighboring lot. Although CN Rail provided comments regarding the proposed development within proximity to their corridor, staff note that the concerns were addressed during the severance process, including the requirement for safety berm, warning posted on title, and increased setback to the rail line.

The proposed change to the driveway width will allow the property owners to park multiple vehicles widthway on the driveway while sufficiently providing amenity space and meeting the requirement of less than 50% of their front yard devoted to parking. Further, as the subject property is located at the end of a rural road, staff are of the opinion that no negative impacts on the streetscape are anticipated; therefore, the variances are an appropriate use of the land.

### **3. Do the variances maintain the intent of the Official Plan? YES**

The policies for development of the 'Rural Residential' designation of the Official Plan are intended to ensure compatibility with the surrounding rural character and that private servicing can be sufficiently accommodated. Planning staff are satisfied that the specific criteria identified in Section 5.3.6 of the OP has been met. This includes, but not limited to, the proper functioning of a private sanitary system, adequate water supply, and a lot coverage, driveway, and minimum setbacks that are compatible with existing lots in the area. Therefore, the intent of the official plan is maintained.

#### 4. Do the variances maintain the intent of the Zoning By-law? YES

The intent of the maximum lot coverage requirement is to ensure sufficient amenity and private servicing areas, as well as to ensure that adequate impervious surfaces are available to facilitate infiltration and lessen drainage impact. In this case, lot coverage also helps to maintain the character of the rural area by providing the 'wide open spaces' feeling of the countryside. Staff are of the opinion that sufficient space is provided for maintenance on the property, with ample space in the rear yard to accommodate amenity space and private services. Further, the dwelling to the south upholds the setback of 5 m, which would ensure the dwellings are not in close proximity to each other to maintain the rural character.

The intent of the side yard provision is to ensure appropriate separation between dwellings to provide privacy, adequate amenity area and room for property maintenance. Planning Staff are satisfied that the side yard variance will maintain privacy for the neighbouring property, will provide sufficient space for maintenance, water runoff management, and access to the rear yard. It is planning staff's opinion that for these reasons the intent of the Zoning By-law is maintained.

The intent of the driveway width provision is to limit access onto public rights-of-way primarily for public safety concerns and to ensure that amenity space is still being provided in the front yard of the property. Planning staff are satisfied that public safety and amenity space will be sufficiently provided. The property is located on a dead-end road, therefore there will be little to no vehicle traffic. There are no sidewalks provided in this area, therefore pedestrian traffic is also expected to be minimal. It is planning staff's opinion that there will be no anticipated impact to increasing the width of the driveway and that the intent of the Zoning By-law is maintained.

In summary, it is staff's opinion that the application meets the four tests of the *Planning Act* required in order to grant a minor variance.

#### **CONCLUSION:**

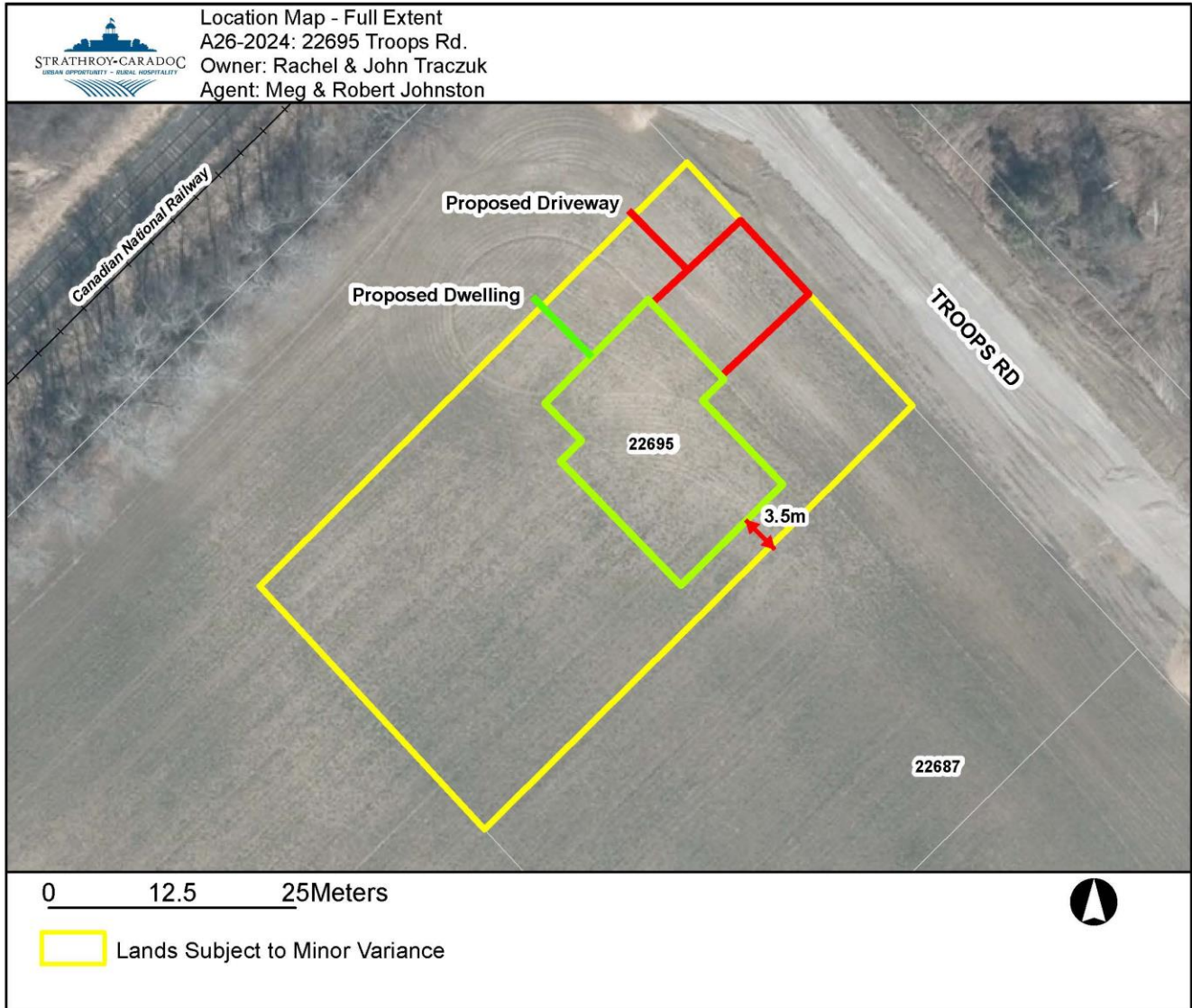
Based on the above analysis, it is recommended that the application to permit a maximum lot coverage of 20%, a minimum side yard width of 3.5 metres, and a maximum driveway width of 10.2 metres for the proposed single detached dwelling with attached garage **be approved**.

#### **ATTACHMENTS**

Location Map

Site Plan

# Location Map



# Site Plan

