



COMMITTEE OF ADJUSTMENT Planning Staff Report

Meeting date: March 6, 2025
Department: Building, By-law and Planning
Report No.: BBP-2025-17
Submitted by: Alyssa Soldo, Planner
Reviewed by: Tim Williams, Manager of Planning, County of Middlesex
Erin Besch, Planner
Approved by: Jake DeRidder, Senior Development Coordinator
SUBJECT: **Application for Minor Variance (A3-2025) 24640 Melbourne Road (County Road 9)**
Owners: Pamela Burdick & Paul Vanderkroft

RECOMMENDATION: THAT: Application for Minor Variance A3-2025 be denied.

PURPOSE:

The purpose of the application is to provide relief from Section 4.6(5)(b) of the Zoning By-law to permit a secondary suite in an accessory building that is 130 m² (1,399 ft²) in size (93% of the gross floor area of the primary dwelling unit), whereas the by-law restricts secondary suites to 40% of the gross floor area of the primary dwelling unit, to a maximum of 75 m² (807.3 ft²), and must be located above the main floor.

The application is intended to permit the existing dwelling as secondary suite and allow a larger primary dwelling to be constructed on the same property.

BACKGROUND:

The subject property is located at the southeast corner of Melbourne Road (County Road 9), and Calvert Drive (County Road 10) in Strathroy-Caradoc (see Location Map). Melbourne Road and Calvert Drive are classified as 'arterial roads' under the jurisdiction of the County of Middlesex. A portion of the property is regulated by the St. Clair Region Conservation Authority. The lands are designated 'Agricultural' and are within the 'General Agricultural (A1) Zone'.

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The subject lands are approximately 22.67 acres (9.17 ha) in size with approximately 600 metres (1,968.5 ft) of frontage along Melbourne Road (County Road 9) and approximately 50 m (164 ft) of frontage along Calvert Drive (County Road 10). The property contains a one-storey single detached dwelling, a steel frame garage, a steel frame barn, and multiple greenhouses. The owners run a propagation/garden centre from this property. The existing one-storey single detached dwelling has a total floor area of 130 m² (1,399 ft²). The existing single detached dwelling/proposed secondary suite is connected to private water and sewage services.

The surrounding land uses are rural residential to the southwest, and agricultural in all other directions.

The applicants are proposing a 'reverse secondary suite' in that they would construct a new larger dwelling on the property that would serve as the primary dwelling unit, and the existing dwelling would become the secondary suite. The new dwelling would be approximately 139.4 m² (1,500 ft²) in size and would be located approximately 140 m (459 ft) northeast of the existing house/secondary suite (see Location Map).

POLICY AND REGULATION BACKGROUND:

The Provincial Planning Statement, Middlesex County Official Plan, and Strathroy-Caradoc Official Plan all encourage intensification in designated settlement areas, provided the development is compatible with the surrounding area and represents an orderly and efficient use of land and infrastructure.

Provincial Planning Statement 2024

The subject lands are located within a 'Prime Agricultural Area' according to the 2024 Provincial Planning Statement (PPS).

Section 4.3.1.2 states that as part of the agricultural land base, prime agricultural areas, including specialty crop areas, shall be designated and protected for long-term use for agriculture.

Section 4.3.2 outlines permitted uses in agricultural areas:

1. In prime agricultural areas, permitted uses and activities are: agricultural uses, agriculture-related uses and on-farm diversified uses based on provincial guidance
2. In prime agricultural areas, all types, sizes, and intensities of agricultural uses and normal farm practices shall be promoted and protected in accordance with provincial standards
3. New land uses in prime agricultural areas, including the creation of lots and new or expanding livestock facilities, shall comply with the minimum distance separation formulae
4. A principle dwelling associated with an agricultural operation shall be permitted in prime agricultural areas as an agricultural use, in accordance with provincial guidance, except where prohibited in accordance with policy 4.3.3.1.c)
5. Where a residential dwelling is permitted on a lot in a prime agricultural area, up to two additional residential units shall be permitted in accordance with provincial guidance, provided that, where two additional residential units are proposed, at least one of these additional residential units is located within or attached to the principal dwelling, and any additional residential units:
 - a. Comply with the minimum distance separation formulae;
 - b. Are compatible with, and would not hinder, surrounding agricultural operations;

- c. Have appropriate sewage and water services;
- d. Address any public health and safety concerns;
- e. Are of limited scale and are located within, attached, or in close proximity to the principal dwelling or farm building cluster; and
- f. Minimize land taken out of agricultural production.

Lots with additional residential units may only be severed in accordance with policy 4.3.3.1.c).

- 6. For greater certainty, the two additional residential units that are permitted on a lot in a prime agricultural area in accordance with policy 4.3.2.5 are in addition to farm worker housing permitted as an agricultural use.

Section 3.6.4 of the PPS states that where municipal or private communal sewage services and municipal or private communal water services are not provided, individual on-site sewage services and individual on-site water services may be used provided that site conditions are suitable for the long-term provisions of such services with no negative impacts.

County of Middlesex Official Plan, 2023

The subject lands are located within the 'Agricultural Areas' designation according to *Schedule A: Land Use*, as contained within the Middlesex County Official Plan.

Section 2.3.9 states that the primary use of land in the Agricultural Area shall be agriculture, agriculture-related uses and on farm-diversified uses in accordance with Section 3.3.5.

Section 3.3.1 states that the purpose of the Agricultural Areas designation is to protect and strengthen the agricultural community, a major economic component within the County, while directing growth and development to existing settlement areas and designated hamlets.

Section 2.3.7.4 notes that specific to the creation of additional residential units outside of settlement areas, such uses shall be grouped with the primary dwelling, shall meet Minimum Distance Separation formulae, and shall be prohibited from being severed from the property unless as part of the severance of the primary dwelling unit as a residence surplus to a farming operation.

The definition of additional residential unit is "means a dwelling unit that is self-contained, subordinate to, and located within the same building or on the same lot of a primary dwelling unit".

Strathroy-Caradoc Official Plan

The subject lands are within the 'Rural Area' according to *Schedule A: Structure Plan*, as contained within the Strathroy-Caradoc Official Plan. Further, the property is within the designated 'Agricultural', identified as a component of the Rural Area, according to *Schedule H: Land Use & Transportation Plan*. The intent of the 'Agricultural' designation is to ensure the continuation of farming as the predominant use in this area – free in its ability to function and expand in accordance with sound farm management techniques and conservation practices and without the constraints imposed by potentially conflicting land uses. The primary use of land in this designation shall be for the cultivation of land, the raising of livestock and the growing of trees. A full range of agricultural activity shall be *permitted* including general

farming, livestock farming, cash crop farming, market gardening, tobacco farming, specialty crops, horticulture and forestry.

Section 2.2.1 of the Official Plan outlines the goals and objectives of the Plan in regard to policies related to the agricultural area. They are listed as follows:

- a) To preserve and protect the Municipality's rich agricultural heritage and prime agricultural land;
- b) To maintain and promote agriculture as a major component of the local economy;
- c) To protect agricultural operations from the unwarranted intrusion of nonagricultural activities which potentially limit or conflict with these operations.

Section 5.3.1.12.1 states that the establishment of a secondary dwelling unit in an existing single unit dwelling or located in a building accessory to a single unit dwelling, shall be permitted and subject to standards prescribed by the Zoning By-law with respect to such matters including but not limited to floor area, exterior alterations, servicing, outdoor amenity area and parking.

It should be noted that the Strathroy-Caradoc Council adopted Amendment No. 14 to the Official Plan in 2022. The purpose of the Amendment was to update the Official Plan to ensure that the land use planning policies are current, reflect Provincial legislation and policy, have regard for matters of Provincial interest and any guideline documents, are consistent with the Provincial Planning Statement (PPS), and reflect changing community needs for the next 25-years. OPA 14 outlines criteria for new additional residential uses which includes the number of units permitted on a lot, being accessory in scale and function, and being grouped with the primary dwelling. OPA 14 is currently under appeal and the updated policies are not determinative for this application.

Strathroy-Caradoc Zoning By-law

The subject lands are currently zoned 'General Agricultural (A1) Zone' according to the Strathroy-Caradoc Zoning By-law. The 'A1' zone permits single detached dwellings, secondary suites, and agricultural uses. The 'A1' zone requires a minimum lot area of 40 hectares, minimum lot frontage of 150 m, minimum front yard depth of 20 m, minimum side yard width of 15 m, minimum rear yard depth of 500 m, and maximum lot coverage of 20%.

Section 4.6(5)(b) of the Zoning By-Law limits the size of secondary suites located in an accessory building to no more than 40% of the gross floor area of the primary dwelling, to a maximum of 75 m² (807.3 ft²). Given the proposed primary dwelling's gross floor area of approximately 139.4 m² (1,500 ft²), 40% would be 55.76 m² (600 ft²). Therefore, the applicant is requesting to increase this maximum permitted size to 130 m² (1,399 ft²), which is approximately 93% of the gross floor area of the primary dwelling. Further, the by-law restricts these units from being located on the ground floor of an accessory building. In this case, the 'primary dwelling' would be the proposed dwelling that is to be constructed, and the existing dwelling would be considered the secondary suite.

Section 4.23(1)(20j) of the Zoning By-Law states that three (3) parking spaces are required to be provided to a single detached dwelling plus one (1) additional space if there is a secondary suite.

CONSULTATION:

The application has been circulated to agencies and neighbouring landowners in accordance to the provisions of the Planning Act.

The Senior Development Coordinator advised of concerns with the distance of the proposed new dwelling and the existing dwelling. The new dwelling should be in close proximity of the existing dwelling to avoid impacts to the agricultural land.

The Middlesex County Engineer advised of no comments regarding the application.

The St. Clair Region Conservation Authority advised that a portion of the subject property is regulated by the Conservation Authority under Ontario Regulation 41/24. The proposed secondary suite is entirely outside the regulated area. SCRCA has no concerns with the proposed application. Any future development and/or site alteration within the regulated area will require written permission from the Conservation Authority under Ontario Regulation 41/24.

As of the date of the writing of this report, no comments have been received by the public.

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? NO

The application proposes to increase the maximum secondary suite size by approximately 55 m² (592 ft²) and is roughly 93% the size of the gross floor area of the proposed primary dwelling unit on the main floor. Staff are of the opinion that this increase cannot be considered minor in nature as the secondary dwelling is very close in size to the primary dwelling, exceeding the 40% maximum size permissions identified in the Zoning By-law. The two structures would be similar in size, making it difficult to identify which dwelling is the primary and which is the secondary suite. The location of the secondary suite would be closer to the road than the primary dwelling which would also make it difficult to distinguish between the primary dwelling and secondary suite.

Additionally, the secondary suite seeks another variance to be located on the main floor. In this case, it is not considered minor as this contributes to the large size of the secondary suite being 93% the size of the primary dwelling unit on the property. The requested variances are essentially proposing a second dwelling on the property, which is not permitted and is not minor.

2. Is the variance an appropriate use of the land? NO

The Strathroy-Caradoc Official Plan and Zoning By-law permit uses such as single detached dwellings, secondary suites, and agricultural uses. The proposed secondary suite is not consistent in size with similar secondary suites within accessory buildings in the area, as it is a single detached dwelling being proposed as a secondary suite. While adequate parking and access could be provided for the secondary suite (due to its existing nature), the location of the new primary dwelling poses concerns about providing a new access to its location, parking, and its impact on the agricultural lands currently being used for production on this property. The construction of the new primary dwelling would take agricultural land out of production due to its

location (140 metres away) not being clustered with the secondary suite. Therefore, staff are of the opinion that the variances are not an appropriate use of the land due to its impact on the agricultural lands on this property.

3. Does the variance maintain the intent of the official plan? NO

The policies for development of the 'Agricultural' designation of the Official Plan are intended to allow for residential and accessory uses, provided they are compatible with and do not hinder the surrounding agricultural operations. Further, these residential uses are capable of being developed on private water and sanitary services. While both the secondary suite and new primary dwelling are proposed to have their own private services, staff are of the opinion that the proposed secondary suite is not complementary to the agricultural area as the structure is large in size and the new proposed primary dwelling unit may hinder or reduce the current agricultural operations on the property. It is for these reasons that planning staff are of the opinion that the intent of the official plan is not maintained, and it would also not meet the criteria for additional residential units in OPA 14.

4. Does the variance maintain the intent of the zoning by-law? NO

The intent of restricting the size of secondary suites is to ensure that the unit remains ancillary to the primary dwelling unit. The secondary suite is proposed to exceed the 40% size restriction provided in Section 4.6(5)(b) of the Zoning By-law and would be 93% of the GFA of the primary dwelling. Planning staff are of the opinion that the secondary suite, in this case, would not remain ancillary due to its size and closer proximity to the frontage of the property than the primary dwelling unit. Concerning the request to permit the secondary suite on the ground floor, this further contributes to the exceedingly large size being requested.

The intent of the requirement for secondary suites to be located on the second storey of an accessory building is to ensure the structure does not become a second dwelling on a property that may become severable in the future. Planning staff are not satisfied that the location of the proposed structure does not present an opportunity for severance in the future as it is 140 metres away from the proposed primary dwelling. Additionally, allowing for the secondary suite on the ground floor further contributes to the exceedingly large size being requested. Therefore, it is the opinion of staff that the intent of the Zoning By-law is not maintained.

In summary, it is staff's opinion that the application does not meet the four tests of the Planning Act required in order to grant a minor variance.

CONCLUSION:

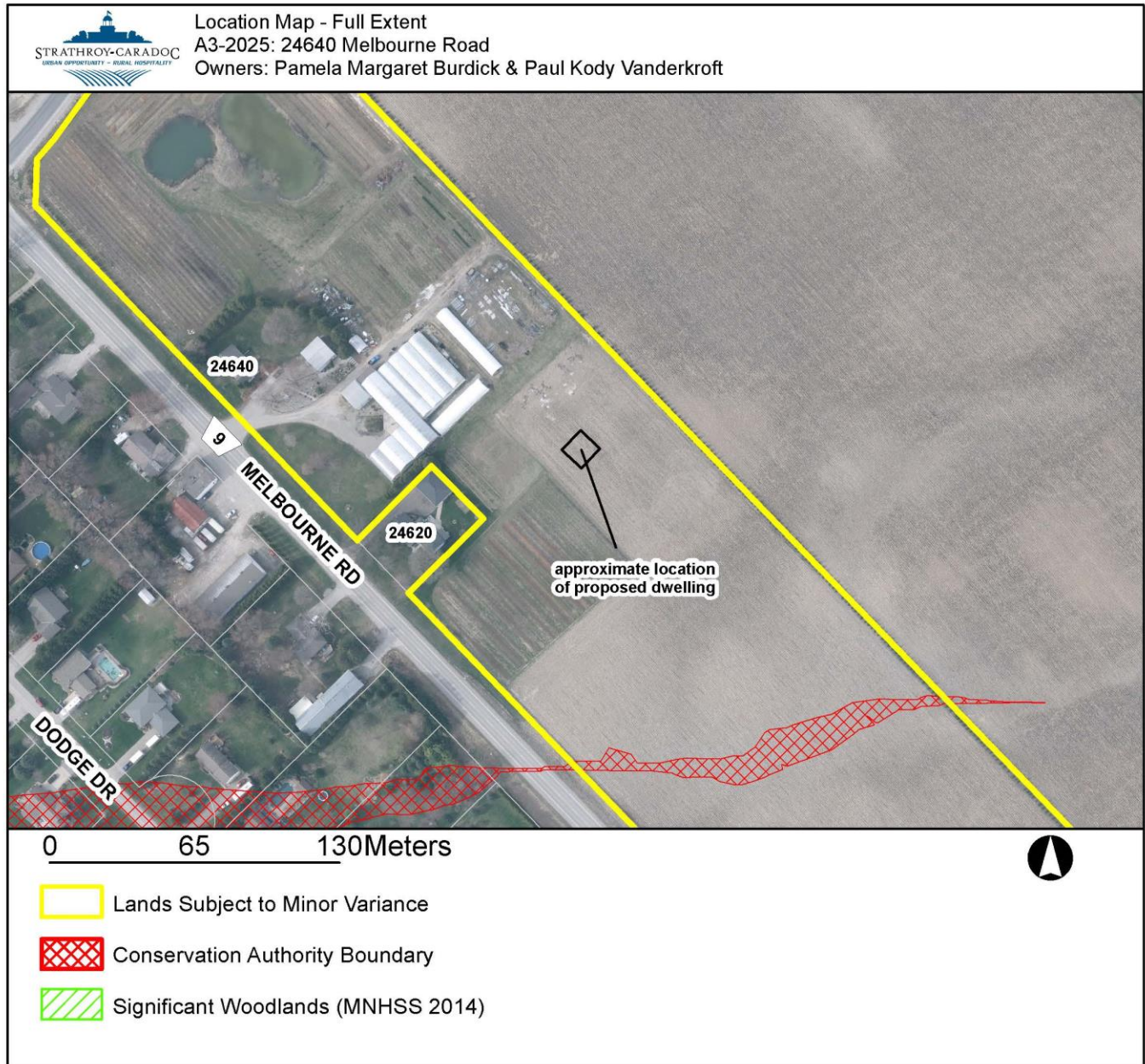
Based on the above analysis, it is recommended that the application for relief from Section 4.6(5)(b) of the Zoning By-law to permit a secondary suite that is 130 m² (1,399 ft²) in size and located on the ground floor of an accessory building, **be denied**.

ATTACHMENTS

Location Map – Full Extent

Location Map – Zoomed In
Site Plan

Location Map – Full Extent



Location Map – Zoomed In



Site Plan

