



Community and Strategic Planning

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Our File: A-3/10

APPLICATION FOR MINOR VARIANCE

TO: The Chair and Members of the
Town of Ingersoll Committee of
Adjustment

MEETING: February 16, 2010
REPORT NO: 2010-41

OWNER:

Troy McClay
400 Bell Street
Ingersoll, ON N5C 2P6

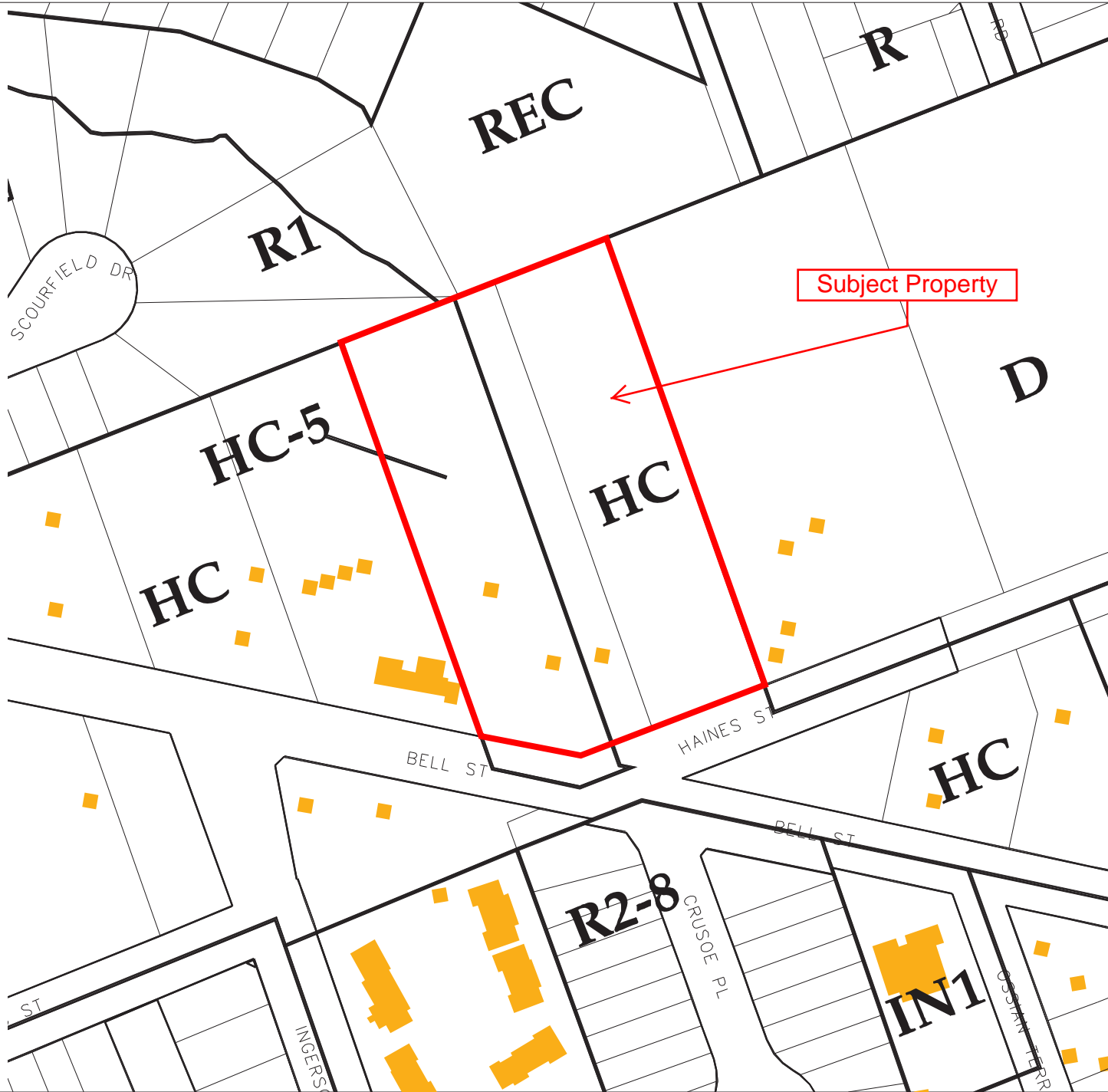
REQUESTED RELIEF: Permission for relief from Section 5.15.5.1 (Extensions to Non-Conforming Buildings) to allow a 278.7 m² (3,000 ft²) addition to a legal non-conforming residential dwelling unit on the subject property.






PROPOSAL: The applicant seeks relief from the non-conforming use section of the Zoning By-Law in order to permit the construction of an addition to a single detached dwelling on a Highway Commercial zoned property.

LOCATION: Lots 1-17, Block 98, Plan 279 (400 Bell Street)

OFFICIAL PLAN: Schedule "I-1" Service Commercial
Town of Ingersoll
Land Use Plan

ZONING BY-LAW: Special Highway Commercial (HC-5) & Highway Commercial (HC)



- LEGEND**
-  Structures (2000)
 - Zoning**
 -  Floodway
 -  Floodfringe
 -  Zoning Line
 -  Municipal Limits

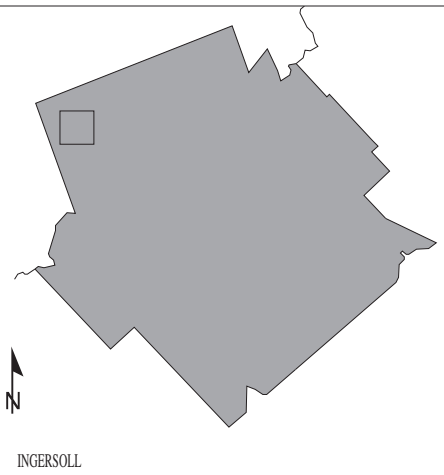


Plate 1 - Existing Zoning
 Troy McClay, Lots 1-17, Block 98, Plan 279
 File No.: A-3/10, Town of Ingersoll



PLANNING REVIEW:

Background:

In 1999, the applicant applied to rezone the subject property from Highway Commercial to Special Highway Commercial to recognize an existing truck transport operation on the subject property. At the public meeting on October 13, 1999, Planning staff presented a report to Town Council to recommend that the application be denied, as the trucking operation is considered to be an industrial use which doesn't conform with the Service Commercial policies contained within the County Official Plan.

Council however passed a resolution to approve the zone change application in principle at the October 13, 1999 meeting. On November 3, 1999, Council then passed By-Law Number 99-3889 to rezone the western portion of the subject property to 'Special Highway Commercial (C3-8)'.

Following this, as part of the passing of the Town of Ingersoll Comprehensive Zoning By-Law (By-Law 04-4160, passed by Council April 13, 2004) the site specific zoning on the property was carried forward and the property was then zoned 'Special Highway Commercial (HC-5)'. The same zoning provisions passed by Council in 1999, were carried forward in the Town's Zoning By-Law. No appeals to the passing of the By-Law were received.

Intent and Purpose of the Official Plan:

The County of Oxford Official Plan states that the Committee of Adjustment, in determining whether the variance is desirable shall take into account the following:

- Whether constraints and/or restrictions to meeting the requirements of the by-law due to the physical or inherent conditions of the site are involved;
- Whether alternative designs of the proposal which would be in conformity with the relevant by-law are clearly not feasible or appropriate for this site;
- The concerns of the effect on the adjacent owners, residents, and community in general have been considered;
- The approval of the minor variance would not create an undesirable precedent; and
- The compliance with the standards of the relevant by-law would be unreasonable or impossible and would impose an undue hardship on the applicant.

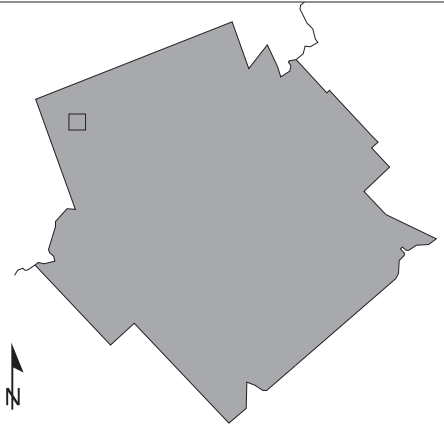
The subject property is designated as Service Commercial within the County of Oxford Official Plan. This designation encourages uses which require large areas for on-site storage of goods or vehicles and other types of commercial uses that offer service to the travelling public, business and industry, such as, hotels, motels, automotive sales and service,



LEGEND

County Orthoimagery (2006)

Municipal Limits



INGERSOLL

Plate 2 - 2006 Aerial Photography
Troy McClay, Lots 1-17, Block 98, Plan 279
File No.: A-3/10, Town of Ingersoll



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COUNTY OF OXFORD

CREATED ON: 05-FEB-2010

convenience commercial uses, gas bars, restaurants and fast food outlets. The policies also state that one accessory residential dwelling unit contained within the main commercial structure will be permitted.

Staff acknowledge that the existing dwelling has been on the subject property for approximately 70 years. Considering this, relative to the restriction of residential uses within the Service Commercial policies, staff maintain that it appropriate to consider Section 10.3.5 ZONING BY-LAWS AND NON-CONFORMING USES.

This section states that in a situation where the extension, enlargement, or change in use for a legal non-conforming use is proposed, the Committee shall consider the following criteria:

- the use has been continuous from the day the zoning by-law came into effect and forward;
- there will be no extension of the site or building beyond the limits of the land owned and used from the effective date;
- permission for the expansion to the nonconforming use is in keeping with the general intent of the Official Plan and will not aggravate those aspects of the use that do not conform to the Official Plan and zoning by-law;
- existing municipal services are in place;
- adequate parking and loading facilities to accommodate the proposed use;
- the proposed expansion will not adversely affect desirable development in adjacent areas which is in conformity with the Official Plan and zoning by-law;
- the proposed expansion would include measures that will reduce nuisances, protect adjacent properties, and improve the compatibility of the use with the surrounding area, and
- the extension is necessary to avoid undue hardship to the applicant.

In regards to the above, staff note that accessory residential uses are permitted as long as they are part of the main commercial building. Considering that the existing dwelling is a long standing use on the property that is free standing and functions as an accessory use to the trucking operation and that the expansion will not impact on adjacent land uses, it is Planning staff's opinion that the proposed application generally meets the intent of the Official Plan policies.

Intent and Purpose of
the Zoning By-Law:

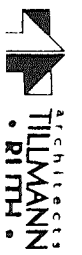
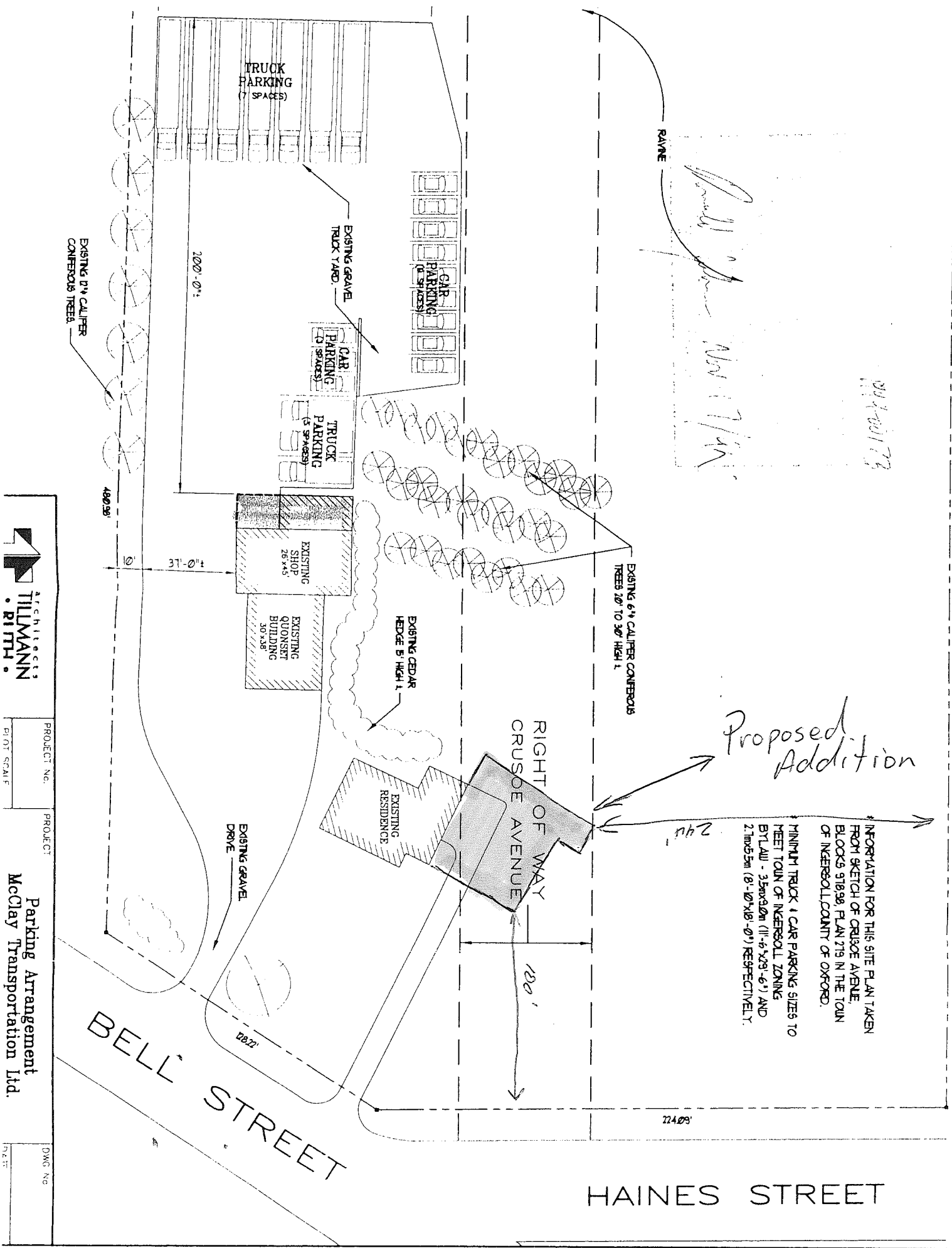
The subject property is zoned 'Highway Commercial (HC)' within the Town of Ingersoll's Zoning By-Law 04-4160. The HC zone permits a range of commercial uses including, but not limited to, a convenience retail store, an eating

04/20/73

Small plan Nov 17/74

Proposed Addition

INFORMATION FOR THIS SITE PLAN TAKEN FROM SKETCH OF CRUISE AVENUE BLOCKS 918-99, PLAN 219 IN THE TOWN OF INVERSOILL COUNTY OF OXFORD.
MINIMUM TRUCK & CAR PARKING SIZES TO MEET TOWN OF INVERSOILL ZONING BY-LAW - 35m x 12m (11'-6" x 39'-6") AND 2.1m x 5m (6'-10" x 16'-0") RESPECTIVELY.



PROJECT No. PROJECT

Parking Arrangement
McClay Transportation Ltd.

DWG. No.

Plate 3 - Applicant's Sketch

establishment, an automobile service station, and a wholesale outlet.

A minor variance is required in order expand the legal non-conforming use, as the intent is for the long-term use of the lands to conform with the objectives and policies of the Official Plan, which in the case of the subject property is for service commercial purposes. In doing so, the objective is that non-conforming uses will convert, relocate or redevelop over time so that the subject land may be used in conformity with the Official Plan policies.

Considering that the long standing dwelling is an accessory use to the permitted trucking operation and the expansion does not preclude the further redevelopment of the subject property for service commercial purposes, it is Planning staff's opinion that the proposal meets with the intent of the Zoning By-Law provisions.

Desirable
Development/Use:

The subject property is surrounded by residential uses in each direction in addition to a stormwater management pond to the north.

Plate 1, Existing Zoning, shows the subject property as well as the existing zoning in the immediate area.

Plate 2, 2006 Air Photo, is an aerial photograph which shows the property in greater detail, including the existing buildings on the subject property.

Plate 2, Applicant's Sketch, is a site plan which illustrates the location of the existing dwelling, general location of the proposed expansion and other buildings associated with the trucking operation.

Accessory residential uses are permitted within the Highway Commercial zone, upon the provision that they are contained within the main commercial structure.

As noted above, the free standing accessory dwelling has existed on the subject property for approximately 70 years. Planning staff do not anticipate that the proposed expansion will impact on neighbouring properties.

Therefore, the proposed expansion is considered to desirable development on the subject property.

Summary:

The applicant has requested a variance from the provisions of the Zoning By-Law to permit the expansion of a legal non-conforming use. In particular, the applicant is proposing a 278.7 m² (3,000 ft²) addition to the existing single detached dwelling on the subject property. Through discussions with the applicant, it is our understanding that the existing dwelling is

approximately 185.8 m² (2,000 ft²) in area.

Through a detailed review of the Official Plan policies, Planning staff note that the proposed expansion to the existing dwelling does not preclude the further redevelopment of the subject property for service commercial purposes.

Based on a review of the application, it is Planning staff's opinion that the application is acceptable and does not create an undesirable precedent. Based on Planning staff's review of the application, it is our opinion that the application meets the 4 tests of a minor variance and is supportable from a planning point of view.

RECOMMENDATION:

Whereas the variance requested:

- (i) is a minor variance from the provisions of the Zoning By-law No. 04-4160;
- (ii) is desirable for the appropriate development or use of the land, building or structure;
- (iii) is in keeping with the general intent and purpose of the Zoning By-law No. 04-4160; and
- (iv) is in keeping with the general intent and purpose of the Official Plan of the County of Oxford,

This office is of the opinion that the application is acceptable from a planning point of view and should be granted, subject to the following condition:

- i) that the variance is granted for the 278.7 m² (3,000 ft²) addition to the existing dwelling in the approximate location as shown on Plate 3 of Planning Report 2010-41.

Authored by:

Approved by:

"Ron Versteegen"

"Gord Hough"

Ron Versteegen, MCIP, RPP
Development Planner

Gordon K. Hough, MCIP, RPP
Senior Development Planner

February 11, 2010
RV/vl

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