

October 24, 2024

Ian Rawlings, Planner  
Town of Essex

Attn. Ian Rawlings

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**SUBJECT: Minor Variance**  
**133 Laird Avenue**  
**Town of Essex**

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**BACKGROUND:**

This Planning Memo has been prepared by Lassaline Planning Consultants Inc. in support of a request for a minor variance to address an interior side yard and the balconies that encroach into the side yard.

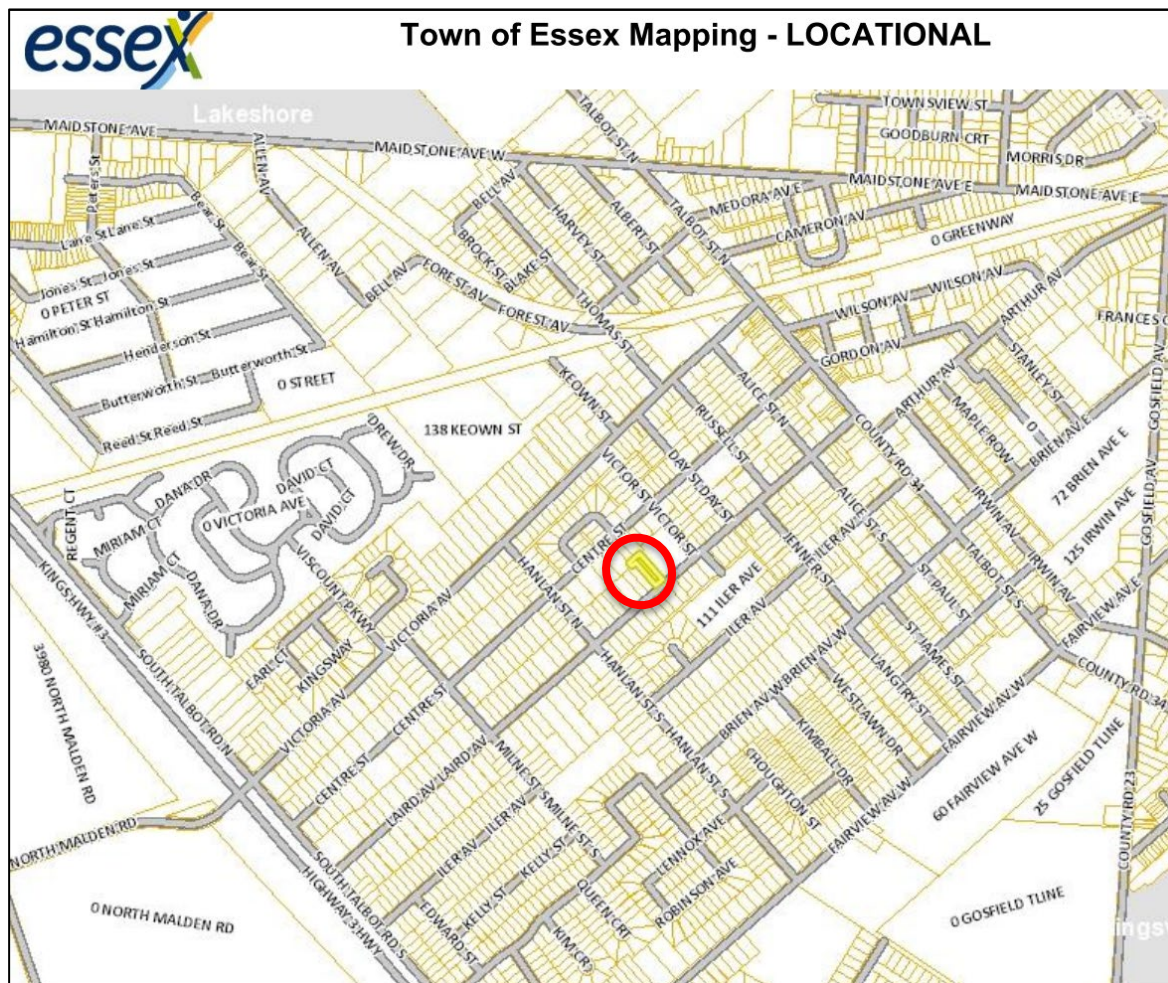


Figure 1 - Location Map



Figure 2 – google street map – vacant lot between 6 storey and single detached

The subject property is located at 133 Laird Ave (refer to Figure 1 below). The subject property is presently vacant lands adjacent to an existing 6 storey multiple-unit building to the north and a single detached residence to the south. The lands are designated 'Residential' and zoned 'Residential District 3 (RD3)' in the Comprehensive Zoning Bylaw 1037 (CZB).



Figure 3 – Aerial 133 Laird Ave

The Minor Variance Application has been submitted through The Town of Essex with the following supporting documents:

1. Aerial Location Map;
2. Site Plan showing 9 unit residential multiunit building and setbacks;
3. Planning Memo.

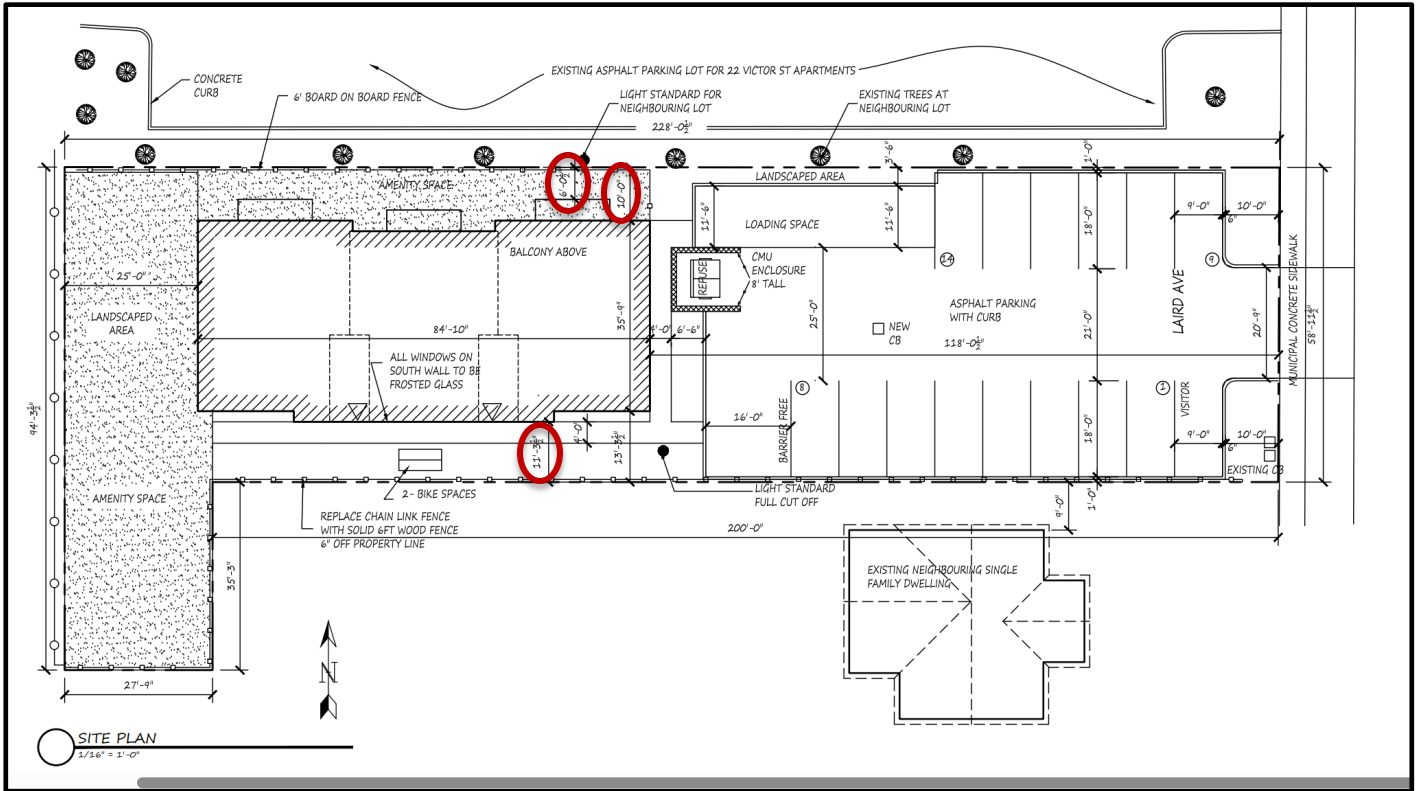


Figure 4 - SITE PLAN

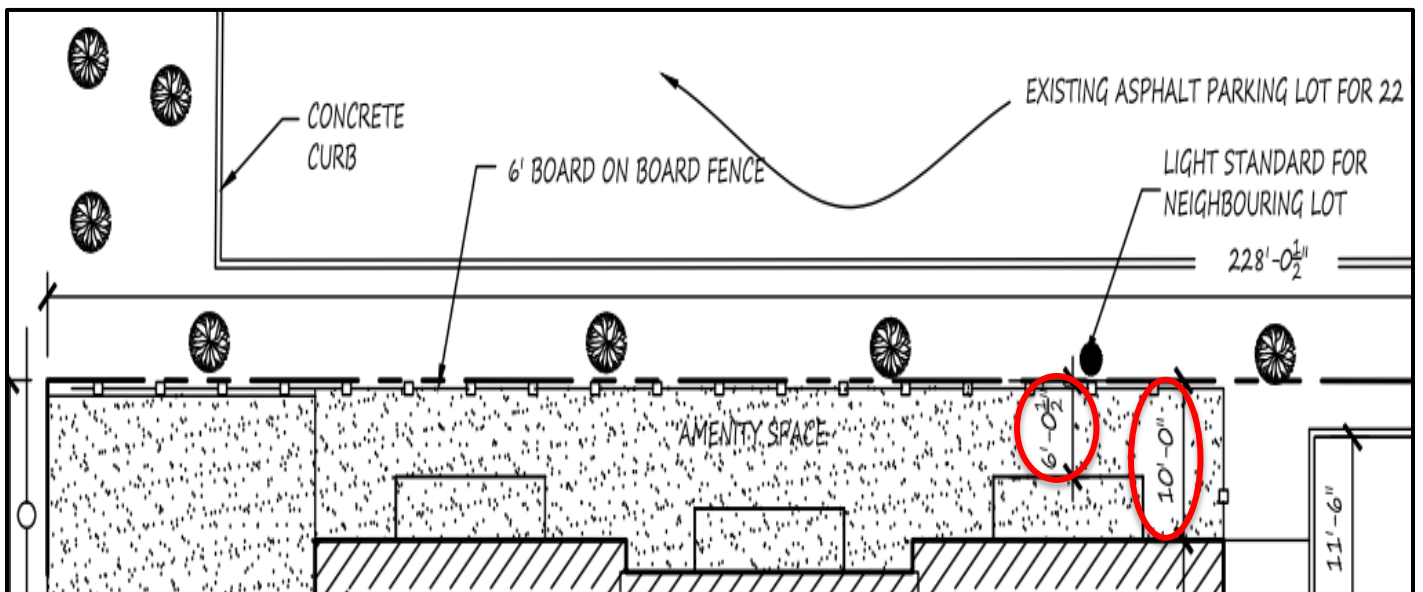


Figure 5 - ZOOMED SITE PLAN NORTH

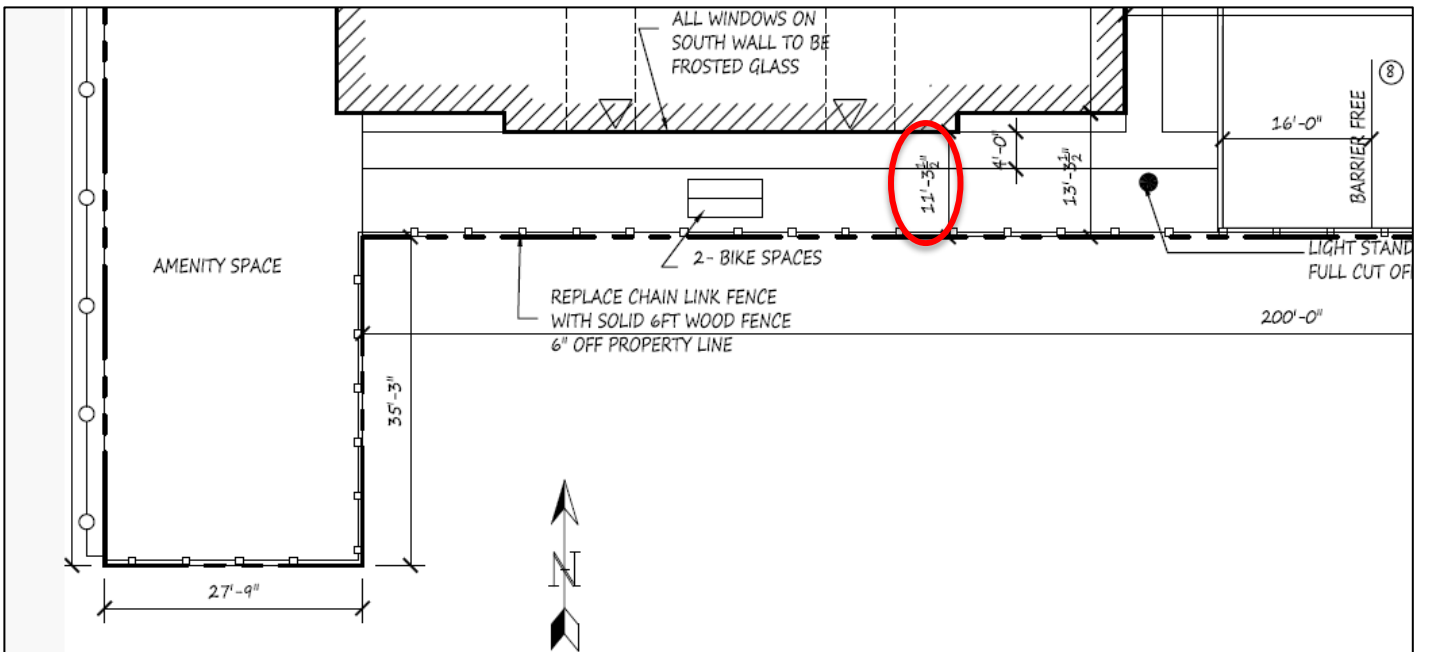


Figure 6 – ZOOMED SITE PLAN SOUTH

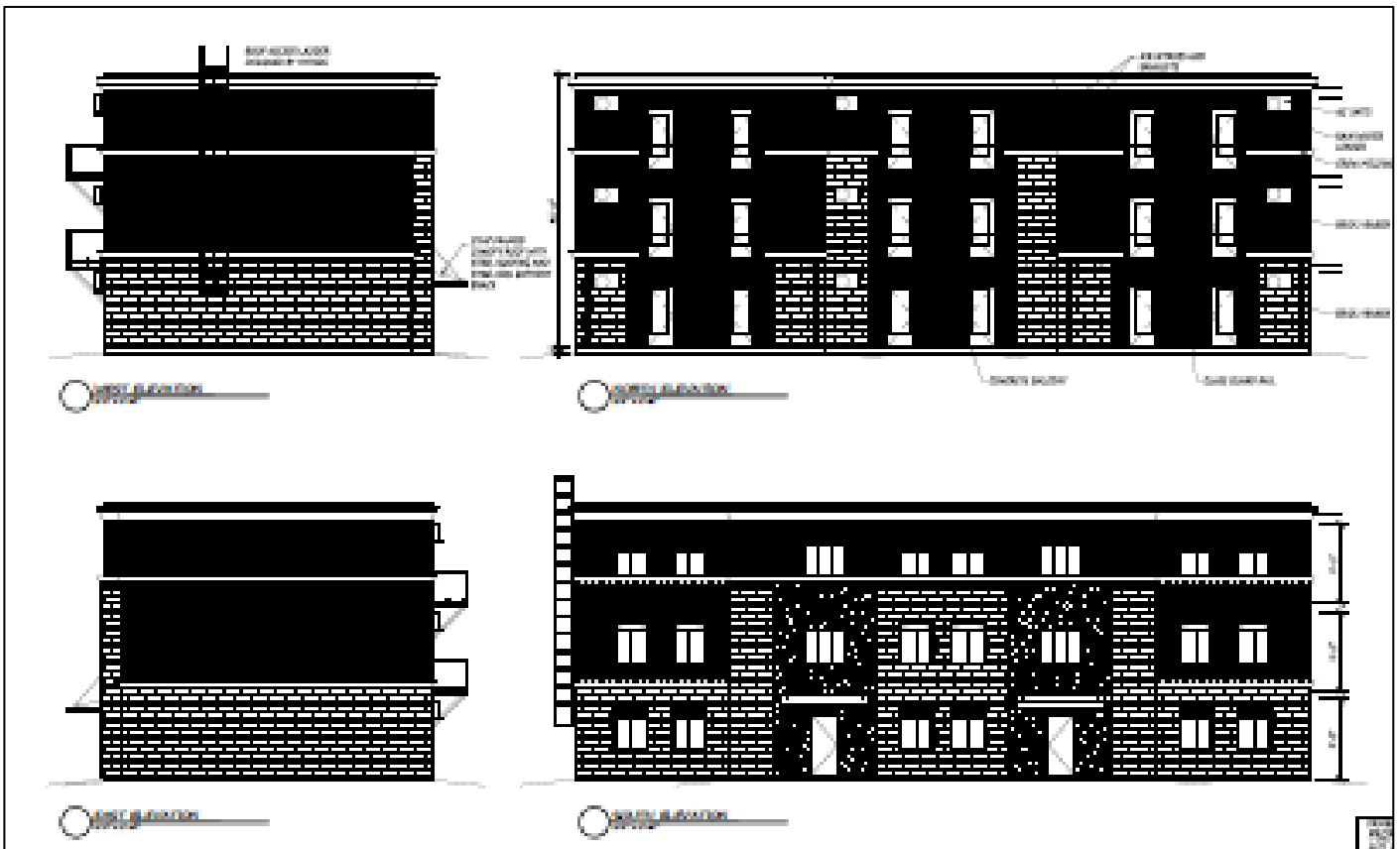


Figure 7 – Elevations

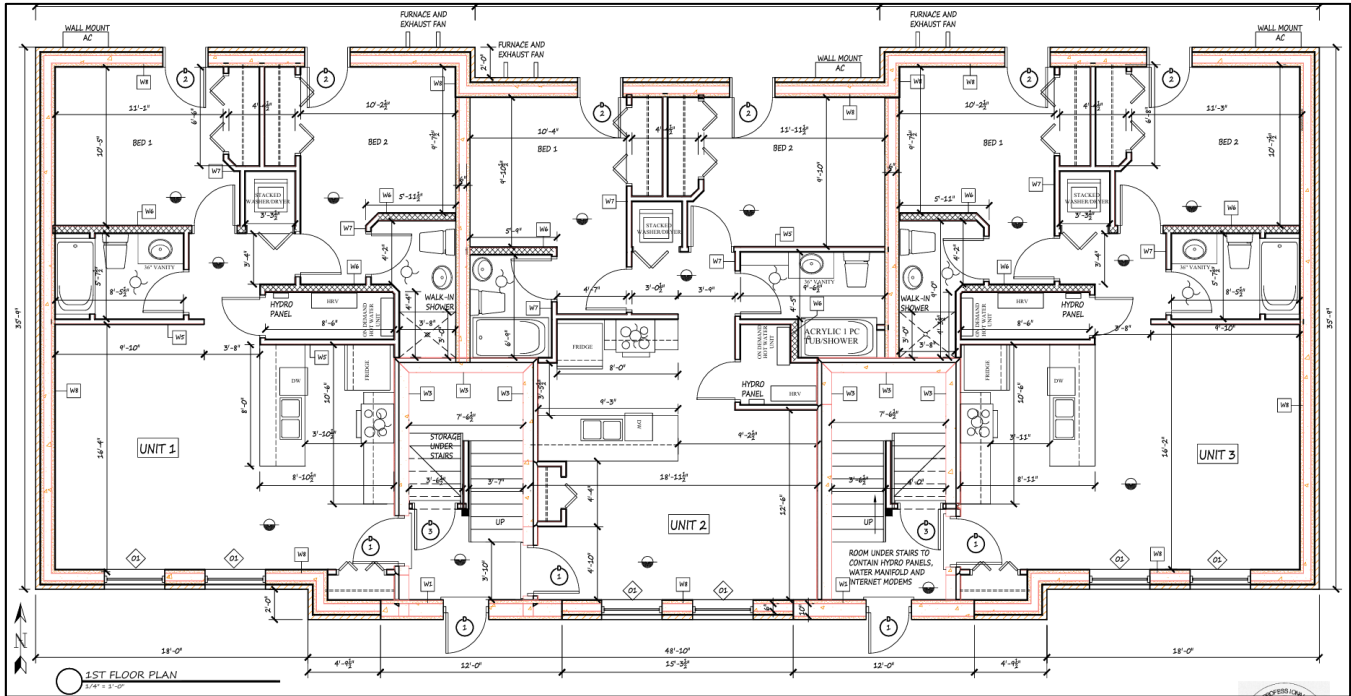


Figure 8 – Floor plans

Proposed is the construction of a 9.6 m high, 3 storey, 9 unit residential rental building with 3 residential units on each floor. The building will have a GFA of 273 m<sup>2</sup> with 20% lot coverage and with 35% + landscaped open space. There are 14 parking spaces to be provided including 1 Barrier Free and in addition 1 loading space and 2 bike parking spaces. The proposed use, building and site are in compliance with the bylaw for the exception of the north interior side yard requested under this variance.

The CZB supports the land use of a multiple unit building, however, the CZB has an Interior Side Yard Setback provision that specifies:

**1) Section 16.1 b) viii Side Yard Setback Minimum:**

- i) **6m (20f) where a habitable room window of any dwelling unit faces a side lot line;**
- ii) 3m (10f) where a one-way vehicular access area (driveway) abuts the main building wall;
- iii) 6m where a two-way vehicular access area (driveway) abuts the main building wall; OR
- iv) **Equal to 30% of the building height, if none of the provisions above apply.**
  - The **north interior side yard** sits at 3m and therefore requires a variance of 3m to allow for the proposed 3m interior side yard associated with the side with bedroom windows (habitable rooms).

- The **south interior side yard** requires a variance of 2.6m to allow for the proposed 3.4m interior side yard. The variance will recognize the reduced interior side yard associated with the front entrance.

## 2) **Section 9.4 c BALCONY - Permitted Encroachment:**

**Balconies are permitted into any yard: but into a required side yard to a maximum depth equal to 25% of the required side yard width, not within 1.2m (4f) of a side lot line.**

- The north side lot line is at a 3 m setback from the building;
- The balconies are approximately 1.2 m in depth from the wall with a 1.8 m interior side yard setback remaining for the balcony;
- **At 25% of 3m = 0.75 m is the maximum depth of a balcony allowable for encroachment. A variance of 0.45 m or an increase of 15% is required to allow for the 1.2m encroachment (40%) into the 3m sideyard.**

In examining a minor variance, it is important to examine the request based on the four tests established in the Planning Act that ensure the appropriateness of the request and place it in context of the Official Plan policy framework, the Zoning Bylaw regulatory framework and sound planning:

### (1) **Does the variance maintain the general intent and purpose with Official Plan policies?**

The lands are designated 'Residential' with the following policies:

***“Section 5.7 Lands Designated Residential: If the level of municipal services permits, it is the intent of this Plan that a broad range of residential uses be permitted on lands designated “Residential” in order to meet the needs of all households.”***

Further, ***“Section 5.7 Goals of the Residential designation: c) to encourage infilling within the existing developed areas; and d) to encourage the construction of a greater variety of housing types.”***

The subject lands are within the settlement area of the Town and there are municipal services and capacity for the proposed use of the lands for medium residential land use.

The low-profile, 9 residential multi-unit building will be an appropriate infill within a residential neighbourhood comprising a mix of residential heights and densities. In addition, the medium density, low-profile building is an appropriate transition from the low profile, single unit residence to the south and the high profile, multiple unit apartment building adjacent to the north.

***“Section 9.8 Minor Variance Policies The Committee of Adjustment, when reviewing applications for minor variances to the Zoning By-law should be satisfied that:***

- a) the general intent of this Plan and the Zoning By-law are maintained;*
- b) the variance(s) is minor and desirable for the appropriate use of the land;*
- c) the variance is compatible with the established character of the neighbourhood, traffic and parking patterns;*
- d) the variance deals with circumstances particular to the site and development.”*

The proposed variances will allow for balconies, an amenity space for each unit, to be placed on the north side of the proposed building adjacent to the vacant parking lot for the high-density building, significantly distance separated from the existing use and providing for buffer between the two buildings. As discussed below, the new building can be considered an appropriate, compatible infilling building that will be an asset to the neighborhood.

In my professional opinion, the requested variances will allow for the low profile, 9 unit residential building that maintains the intent with the use and development policy directions of the Official Plan as an appropriate infilling and compatible residential development within the residential neighbourhood.

2) **Does the variance maintain the general intent with the Comprehensive Zoning Bylaw 1097?**

The subject lands are zoned 'Residential District 3 (RD3)' in the CZB 1097.

The minor variance will allow for balconies on the north side of the building adjacent to the parking lot of a high density residential building, with distance separation between the balconies and the adjacent residential building to the north. The distance separation between the buildings and without balconies on the south side of the building there will not be a loss of privacy for the residents to the north or for the single, detached residence to the south.

The balconies will provide for amenity space for each residential unit.

The interior side yard reduction will provide for larger residential apartment units that will provide for necessary alternative housing tenure and style within the Town of Essex.

The requested development maintains the intent of the CZB 1097 and will allow for an appropriate residential use as an infilling building in a residential neighbourhood. In my professional opinion, the proposed land use, building, and yard provisions maintain the intent with the (RD3) zone regulatory requirements.

3) **Is the application desirable for the appropriate development of the lands in question?**

Desirability and the appropriateness of a variance are not quantifiable as a number, but rather is the consideration of whether the variance will allow for appropriate development and not result in a negative impact on the neighbourhood.

The variance will allow for a reduction in the interior side yard for a new medium density, low profile residential building with 9 units. The low profile building and residential use can be considered a positive, compatible infilling residential development within a residential neighbourhood.



The north side yard variance will not have a negative impact on the north neighbour since the adjacent building is significantly separated with approximately 48 m separation to the existing building from the new building.

There is no privacy impact on the north residential apartment since the distance separation is so great between the buildings. The variance will allow for the positive addition of the balconies as outdoor amenity space for the new residential building without any impact on the adjacent existing apartment building being so distance separated.

The south lot line reduction is adjacent to the rear yard area of the existing adjacent single detached residence. There are no balconies or outdoor amenity space on this side of the new building and therefore no land use conflict created with the variance requested.

In my professional opinion the minor variance is desirable to support the establishment of a new 9 unit, 3 storey residential building as an alternative, compatible, and appropriate infilling residential building within a built residential neighbourhood.

4) **Can the requested variance be considered minor?**

The setback established under 16.1 b) viii at 6 m is to ensure that the habitable rooms (bedrooms) will be distance separated from the lot line to ensure that there is no loss of privacy and there is sufficient distance separation from a use on the adjacent parcel.

The adjacent building to the north is approximately 48 m separated with a parking lot between the two buildings. It is my professional opinion that the setback is minor and will allow for the appropriate use of the long, narrow parcel without infringing on the use of the adjacent lands to the north.

The increase in permitted encroachment of the balcony overhang will allow for the outdoor amenity space for the residential units, providing for a positive apartment dwelling experience.

With the vast open space between the two buildings, the 0.45 m increase in balcony encroachment and the 3 m reduction of both the south and north interior side yard will not be noticeable or have a negative impact on the adjacent, existing land use and buildings or have a negative impact on privacy of both buildings and therefore can be considered minor.

There are no balconies on the south side of the building. The building will be adjacent to the rear yard of the existing residence and will not have any impact on the existing residence to the south.

It is my professional opinion that the variances will allow for a visual reduction that is negligible and not identifiable within the significant distance separation between the north residential building and the south single detached residence.

As a three storey building, the structure will be both a visual and a noise buffer between the existing single detached residence from the high density residential development to the north. The variances can be considered minor and will allow for a new residential building that is appropriately infilling within the residential neighbourhood.

**5) Is the requested variance compatible with the established character of the neighbourhood, traffic and parking patterns?**

The lot configuration is challenging for design however, parking has been provided on site and in compliance with the bylaw.

There will be landscaping, a wood privacy fence and a large rear yard amenity space for the tenants. In addition, the variance will support the balconies as more amenity space, providing for a positive infilling development.

The proposed development will assist with buffering the low profile, single detached residence to the south from the high profile, high density development to the north.

The lower profile of the three storey proposed building will provide both density and a visual transition between the low density to the south and the high density to the north. The transitional nature and the buffering component of the proposed development ensures compatibility of the proposed building with the adjacent properties and the neighbourhood.

It is my professional opinion that the proposed design of the building in conjunction with the variances makes for a positive, infilling building that is compatible with the established neighbourhood.

**6) the variance deals with circumstances particular to the site and development?**

The lot is unique in shape with a long narrow 'L' shaped property. The building has been designed with the balconies only on the north side where there is significant separation distance between the two buildings. There are no balconies on the south side adjacent to the single, detached residence. The variance will allow for the residential infilling building without impact on either existing residential use to the north or to the south.

In my professional opinion, the variance can be considered to allow for a compatible infilling development on a unique parcel and therefore conforms with the intent of the Official Plan policies.

In my professional opinion, the requested 0.45 m (15%) variance for the increase of the permitted encroachment of the balconies; the 3 m variance to allow for a 3m interior north side yard for the habitable rooms; and the 2.6m reduction that will allow for a 3.4m interior south side yard can be considered minor and appropriate. The variances will allow for a compatible residential infilling building in an existing residential neighbourhood.

**CONCLUSION:**

A variance is not determined minor using a differential in numbers. A variance is determined based on conformity and compliance of the allowable land use with the policy and regulatory frameworks with legislation.

Also, determining if there is negligible impact on the neighbourhood from the variance assists in determining whether the requested change in the site specific setback is minor and will allow for compatible development.

In my professional opinion and based on the above evaluation, the variance application meets the four tests and can therefore be considered minor and represents good planning.

Should you have any further questions or comments, do not hesitate to contact me.

Regards,

**Lassaline Planning Consultants**

*Jacqueline Lassaline*

**Jackie Lassaline BA MCIP RPP**

Owner, Principal Planner