

# AMHERSTBURG COMMITTEE OF ADJUSTMENT

Wednesday, January 11, 2023, 7:30 AM

## MINUTES

Present: D Cozens, D. Shaw, T. Buchanan, A. Campigotto

Absent: J. Mailloux (with notice)

Also Present: Janine Mastronardi, Acting Secretary-Treasurer, Kevin Fox, Clerk, Chris Aspila, Manager of Planning Services

### 1. Call to Order

The Chair, David Cozens, called the meeting to order at 7:35 am and performed introductions of the Committee members and administration.

### 2. Roll Call

The Chair completed the roll call for the meeting, Josh Mailloux was absent with notice.

### 3. Land Acknowledgement

The Chair has read the following land acknowledgment;

We will begin by acknowledging that the land on which we gather is the traditional territory of the Three Fires Confederacy of First Nations (comprising the Ojibway, the Odawa, and the Potawatomie Peoples), and of the Huron- Wendat, and Wyandot Peoples. We recognize the land as an expression of gratitude to those whose traditional territory we reside on, and a way of honouring the Indigenous people who have been living and thriving on the land since time immemorial. We value the significant historical and contemporary contributions of local and regional First Nations and all of the Original Peoples of Turtle Island.

### 4. Disclosure of Interest

D. Shaw declared a conflict due to pecuniary interest in Item 6.3 as part owner of the subject lands.

### 5. Adoption of Minutes

The Chair requested comments on the adoption of minutes of December 7, 2022 Committee of Adjustment meeting.

A motion was put forward to adopt the minutes as presented.

Moved by: Terris Buchanan

Seconded by: Anthony Campigotto

	Yes/Concur	No/Not Concur
Anthony Campigotto	X	
Josh Mailloux	Absent	Absent
Terris Buchanan	X	
Donald Shaw (VC)	X	
David Cozens (CH)	X	

## 6. Order of Business

### 6.1 Bill 23 Update

The Committee was provided an update on Bill 23. Bill 23 enacted several changes to the Planning Act. The process for consents and minor variances changed in that there are no longer third party appeal rights for decisions made on these types of applications. Consent and minor variance decisions can only be appealed by the applicant, the municipality or the Minister.

### 6.2 Application B/32/22– Pacitti Contracting Company Inc., c/o Dillion Consulting Limited, Agent– 580 Middle Sideroad (Roll No. 3729-460-000-01100)

**Public in Attendance:** Melanie Muir, Agent on the application

**Purpose of Consent Application B/32/22:** The applicant is proposing to sever a parcel of land being 47.9 m frontage on Concession 2 North by 101.8 m depth with an area of 0.48 ha for purposes of creating a new lot together with an easement for reciprocal access, parking and servicing between the severed and retained lands. The remaining parcel being 58.1 m frontage on Concession 2 N by an irregular depth with an area of 0.97 ha contains two commercial buildings with associated parking and stormwater management pond. The subject lands are designated Neighbourhood Commercial in the Town's Official Plan and zoned Special Provision Commercial Neighbourhood/Residential Type 1A (CN-12/R1A) Zone in the Zoning By-law 1999-52.

The applicant has concurrently applied for a zoning by-law amendment to address site-specific zoning requirements for the severed parcel. Together in this application, a reduced interior side yard setback is being requested for the proposed retained parcel.

The following correspondence was received from the various agencies and residents circulated:

- i) Letter dated November 29, 2022, from Essex Region Conservation Authority
- ii) Email dated November 30, 2022 from Infrastructure Services
- iii) Email dated December 4, 2022 from Essex Terminal Railways
- iv) Email dated November 28, 2022 from John & Tracy Valaris
- v) Email dated November 30, 2022 from Domenic Varacalli
- vi) Planning Report dated January 4, 2023, from Janine Mastronardi, Acting Secretary-Treasurer

**Committee Discussion:** The Chair introduced the application and asked if there were any members of the public present for this application. Melanie Muir, Agent on the application was present to represent the applicant. No members of the public were in attendance. Janine Mastronardi read the purpose of the application. Melanie Muir explained the concept of the application. The proposed lot creation is intended to facilitate the construction of three additional mixed use buildings containing a total of six (6) commercial units and six (6) residential units above. A new access is to be constructed on Concession 2 N. A reciprocal access, parking and servicing agreement will be entered into between the severed and retained parcel through site plan control process. The agreement would be registered on title. A concurrent zoning by-law amendment is currently being processed. The proposed new lot will be subject to site plan control for any new development. The applicant confirmed they will coordinate with Essex Terminal Railway (ETR) to address ETR's requirements. The conceptual site plan was share.

The proposed conditions of consent were read aloud. Discussion ensued regarding the conditions and clarifying the wording used. C. Aspila explained the comments received from ETR along with the requested condition wording was standard practice for any development adjacent to a railway. The Chair confirmed with the applicant that the proposed conditions of consent were understood, M. Muir confirmed understanding.

The Chair acknowledged receipt of the written correspondence received and noted the concerns expressed. Clarification was provided to the Committee on the history of the Official Plan Designation and the Zoning of the subject lands noting the current land uses permitted have been the same since the Town underwent the Official plan review process in 2007 with the final document being approved in 2009.

The following resolution was put forth:

**That application B/32/22 be approved** subject to the following conditions:

1. That a Reference Plan of the subject property satisfactory to the municipality be deposited in the Registry Office; a copy to be provided to the municipality.
2. The applicant to submit to the municipality the deed acceptable for registration in order that consent may be attached and a copy be provided to the municipality.
3. That all property taxes be paid in full.
4. That the parkland fee be paid to the Town of Amherstburg prior to the stamping of the deeds for the severed parcel.
5. That the applicant install a separate water service connection to the severed lot in accordance with and under the supervision of the municipality at the applicant's expense, prior to the stamping of deeds.
6. That the applicant must install a new driveway access to the severed parcel at the applicant's expense, to the satisfaction of the municipality, prior to the stamping of deeds.
7. That the applicant be required to obtain a Right-of-Way Permit from Infrastructure Services according to Town policy for any work required within the limits of the Town right-of-way. All permitting costs will be borne entirely by the applicant.
8. Subject to site plan control agreement with the municipality, all downspouts from any new structure must not be connected into lot subdrains; downspouts must be constructed to splash onto the adjacent ground.
9. That an assessment apportionment for any and all drains affected by the severance be completed in accordance with the provisions of the Drainage Act and that all costs associated with said apportionment be paid by the applicant.
10. That a zoning by-law amendment be approved from the provisions of Bylaw 1999-52, as amended, Section 17(3)(d) which require a minimum interior side yard width of 7 m in a Commercial Neighbourhood (CN) Zone to permit a 1.5 m interior side yard setback on the retained parcel prior to the stamping of the deeds.
11. That the existing development agreement dated September 26, 2016 be amended to reflect changes to the site plan subsequent to the consent to the satisfaction of the municipality.
12. That the property owner complete and implement a storm water management design for the severed and retained lands at the property owner's expense and to the satisfaction of the municipality.

13. That the property owner enter into reciprocal agreements registered on the title of the property regarding access, parking and servicing with terms and conditions satisfactory to the municipality.
14. That specific site conditions/restrictions/specifications be determined through discussions with Essex Terminal Railway to the satisfaction of the municipality.
15. That all agreements of purchase and sale, building contract or lease of the severed lands must be entered into with a warning clause inserted into said agreements as follows:
  - i. Sound levels from increasing rail traffic may interfere with activities of dwelling occupants and the sound level may exceed the noise guidelines of the Municipality and the Ministry of the Environment, Conservation and Parks. An environmental easement in favour of abutting rail line lands is registered on title to the Pacitti lands.
  - ii. The Essex Terminal Railway Company (or its successors and assigns) (“ETR”) has a right-of-way abutting the Pacitti lands. There may be alterations or expansions of rail facilities and uses on the right-of-way in the future, which may result in increased noise, dust, vibration and odour, among other effects. ETR will not be responsible for any complaints, claims, damages or costs of adjoining owners arising from its facilities and operations on the abutting right-of-way.
  - iii. The dwelling units on the lands have been supplied with central air conditioning and air exchange equipment which will allow windows and exterior doors to remain closed, intended to reduce, but not eliminate, the effects described above.
16. This consent will be deemed to be refused in accordance with the Planning Act if the above noted conditions are not met within two years from the date of this notice.

Moved by: Terris Buchanan

Seconded by: Anthony Campigotto

-carried-

	Yes/Concur	No/Not Concur
Anthony Campigotto	X	
Josh Mailloux	Absent	Absent
Terris Buchanan	X	
Donald Shaw (VC)	X	
David Cozens (CH)	X	

Reasons of Committee- The request is in conformity with Section 6.1.2 of Amherstburg's Official Plan and is consistent with the Provincial Policy Statement.

Vice Chair Donald Shaw temporarily stepped down from the Committee at this time for the discussion and vote on Item 6.3.

**6.3 Application B/01/23 & A/01/23– 806574 Ontario Inc., c/o James Shaw, Agent- 6436 Concession 6 N- (Roll No. 3729-390-000-03900)**

**Public in Attendance:** James Shaw, Applicant

**Purpose of Consent Application B/01/23:** The applicant is proposing to sever a parcel of land being 60.96 m ± frontage by 76.2 m ± depth with an area of 0.46 ha ± which includes a single detached dwelling and two accessory structures which are surplus to the needs of the farming operation. The remaining parcel being 242.93 m ± frontage by a 670.56 m ± depth with an area of 20.04 ha ± is vacant agricultural land. The subject property is designated and zoned Agricultural in the Town’s Official Plan and Zoning By-law.

**Purpose of Minor Variance Application A/01/23:** The applicant is requesting relief from Zoning By-law 1999-52, as amended, Section 26(3)(a)(i) which requires a minimum lot area of 40 hectares in an Agricultural (A) Zone. Subsequent to a severance of a 0.46 ha ± surplus dwelling from an existing 20.5 hectare parcel the retained farm parcel will have an area of 20.04 hectares. Therefore, the amount of relief requested is 19.96 hectares.

The following correspondence was received from the various agencies and residents circulated:

- i) Email dated January 4, 2023, from Essex Region Conservation Authority
- ii) Email dated December 20, 2022 from Building Department
- iii) Email dated December 20, 2022 from Infrastructure Services
- iv) Planning Report dated January 4, 2023, from Janine Mastronardi, Acting Secretary-Treasurer

**Committee Discussion:** The Chair introduced the application and asked if there were any members of the public present for this application. James Shaw, applicant was present to represent the application. Janine Mastronardi read the purpose of the application. James Shaw explained the concept of the application. It was confirmed that the applicant also owns the abutting farm parcel. Proposed property lines were determined to ensure sufficient setbacks for access to existing structures and septic system on severed parcel. There is an existing access to the severed surplus dwelling parcel and an existing access to the retained farm parcel.

The proposed conditions of consent were read aloud. The Chair confirmed with the applicant that the proposed conditions of consent were understood and J. Shaw confirmed understanding.

The following resolutions were put forth:

**That application B/01/23 be approved** subject to the following conditions:

1. That a Reference Plan of the subject property satisfactory to the municipality be deposited in the Registry Office; an electronic and paper copy to be provided to the municipality.
2. The applicant to submit to the municipality the deed acceptable for registration in order that consent may be attached and a copy be provided to the municipality.
3. That all property taxes be paid in full.
4. That a minor variance be obtained from the provisions of Bylaw 1999-52, as amended, Section 26(3)(a)(i) which requires a minimum lot area of 40 hectares in an Agricultural (A) Zone regarding the retained farm parcel.
5. That the retained farmland to be rezoned to ensure that no new dwelling units shall be permitted and the requirement for this non-development be registered against the title of the property.
6. That the applicant obtain a report from an independent qualified person that the existing private septic system serving the surplus dwelling does not cross the property lines, that the system is in working order and that its operation will not be affected by the severance, to the satisfaction of the municipality.
7. That an assessment apportionment for any and all drains affected by the severance be completed in accordance with the provisions of the Drainage Act and that all costs associated with said apportionment be paid by the applicant.

8. That the applicant determine if there are any existing farm drainage tiles/systems extending through the parcel that is to be severed and, if existing farm drainage tiles/systems are found, that the applicant redirect the tiles/systems around the parcel to be severed to the satisfaction of the municipality.
9. That the applicant ensures the property maintains its own drainage as to not affect neighbouring properties.
10. This consent will be deemed to be refused in accordance with the Planning Act if the above noted conditions are not met within two years from the date of this notice.

Moved by: Anthony Campigotto  
 Seconded by: Terris Buchanan

-carried-

	Yes/Concur	No/Not Concur
Anthony Campigotto	X	
Josh Mailloux	Absent	Absent
Terris Buchanan	X	
Donald Shaw (VC)	(P.I.)	(P.I.)
David Cozens (CH)	X	

Reasons of Committee- The request is in conformity with Section 6.1.2 of Amherstburg's Official Plan and is consistent with the Provincial Policy Statement.

**That application A/01/23 be approved.**

Moved by: Terris Buchanan  
 Seconded by: Anthony Campigotto

-carried-

	Yes/Concur	No/Not Concur
Anthony Campigotto	X	
Josh Mailloux	Absent	Absent
Terris Buchanan	X	
Donald Shaw (VC)	(P.I.)	(P.I.)
David Cozens (CH)	X	

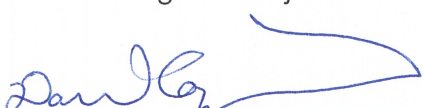
The Committee, having considered the evidence presented, and having reviewed the plans and correspondence on file, is satisfied that the variance request is minor in nature, will not impact the character of the neighbourhood, and is keeping with the intent of the Official Plan and Zoning By-law.


**7. Next Meeting**

The next Committee of Adjustment meeting is scheduled on February 1, 2023 at 8:00 am.

**8. Adjournment**

The meeting was adjourned at 8:00 a.m.

  
 Chairman- Dave Cozens

  
 Acting Secretary-Treasurer –  
 Janine Mastronardi