



THE CORPORATION OF THE TOWN OF AMHERSTBURG

OFFICE OF DEVELOPMENT SERVICES

MISSION STATEMENT: Committed to delivering cost-effective and efficient services for the residents of the Town of Amherstburg with a view to improve and enhance their quality of life.

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Author's Phone: 519 736-5408 ext. 2134	Date to Committee: May 1, 2024
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To: Chair and Members of the Committee of Adjustment

Subject: B/12/24, 296 Crystal Bay Drive, Stephanie Savoni, Ryan & Monique Diotte, c/o Ryan Solcz, Agent

1. **RECOMMENDATION:**

It is recommended that:

1. Subject to the Committee's consideration of written and oral submissions at the public meeting that application B/12/24 **BE APPROVED** subject to the recommended conditions.

2. **PROPOSAL:**

The applicant is proposing to sever a parcel of land being 17.5 ft frontage by 157.68 ft depth with an area of 2795 sq ft for the purpose of a lot addition to merge with 300 Crystal Bay Drive, 640-000-19300. The remaining parcel having 17.5 ft frontage by 157.68 ft depth with an area of 2802 sq ft contains a gazebo and will merge with 290 Crystal Bay Drive, 640-19610. The gazebo is proposed to be removed.

The subject property is designated Recreational Development Special Policy Area 6 in the Town's Official Plan and is zoned Resort Residential/Report Commercial (RR/RC) in the Town's Zoning By-Law 1999-52.

3. **BACKGROUND:**

N/A

4. PLANNING INFORMATION:

Official Plan designation: Recreational Development Special Policy Area 6
By-law No. 1999-52: Resort Residential/Resort Commercial (RR/RC) Zone
Existing Use: Vacant Residential
Neighbouring Uses: Residential and Vacant Residential
Access: Crystal Bay Drive

5. PLANNING ANALYSIS:

In the review of the subject application, a number of points have been reviewed:

1. *PLANNING ACT (R.S.O. 1990)*

The purposes of the Planning Act are;

- “ (a) to promote sustainable economic development in a healthy natural environment within the policy and by the means provided under this Act;
- (b) to provide for a land use planning system led by provincial policy;
- (c) to integrate matters of provincial interest in provincial and municipal planning decisions;
- (d) to provide for planning processes that are fair by making them open, accessible, timely and efficient;
- (e) to encourage co-operation and co-ordination among various interests;
- (f) to recognize the decision-making authority and accountability of municipal councils in planning. 1994, c. 23, s”

The proposal is consistent with Section 2 of the Planning Act which requires that the Committee of Adjustment have regard to matters of provincial interest including (the following are excerpts from Section 2 of the Planning Act that apply to this development):

- the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems;
- the orderly development of safe and healthy communities;
- the adequate provision of a full range of housing, including affordable housing;
- the appropriate location of growth and development;

The proposed severance for lot addition is within a settlement area. The conditions of consent are proposed to ensure orderly development of the severed and retained lots.

When considering the severance application, under Section 53 of the Planning Act, R.S.O. 1990, as amended, the Committee may consider an application for consent if they

are satisfied that a plan of subdivision is not necessary for orderly development of the land. In this case, the applicant is applying for a lot addition which will sever one residential building lot in half and merge each half with the abutting parcels within an existing subdivision development on an existing right-of-way with municipal water and sanitary sewers. A plan of subdivision is not necessary.

2. PROVINCIAL POLICY STATEMENT:

The Planning Act R.S.O 1990, C.P.13, requires that the Council of a local Municipality and Committees of a local Municipality shall have regard to matters of Provincial interest in carrying out applications such as a severance application. Items of Provincial interest are outlined in the Provincial Policy Statement (PPS) issued by the Ministry of Municipal Affairs and Housing.

“Part II: Legislative Authority

The Provincial Policy Statement is issued under the authority of Section 3 of the Planning Act and came into effect on May 1, 2020. In respect of the exercise of any authority that affects a planning matter, Section 3 of the Planning Act requires that decisions affecting planning matters “shall be consistent with” policy statements issued under the Act.”

The PPS provides for appropriate development while protecting resources of provincial interest, public health and safety and the quality of the natural and built environment. They include such issues as the protection of ecological and natural systems, providing cost-effective and orderly development, the protection and enhancement of the quality and quantity of ground water and surface water and the function of sensitive ground water recharge/discharge areas, aquifers and headwaters to name a few.

The consent for a residential lot addition is consistent with Section 1.1 of PPS which speaks to managing and directing land use to achieve efficient development and land use patterns. The lot is within a settlement area. The severed and retained lots will merge with parcels serviced with municipal water and sanitary sewers. The severance application will create enlarge two existing residential lots within an existing settlement area which is supported by the PPS.

Section 2.1.8 of the PPS states, “*Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 2.1.4, 2.1.5, and 2.1.6 unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions.*” The PPS defines development as creation of a new lot. A lot addition is not considered development under the PPS. Also, the lands comprised of the proposed lot additions are approved for development and have been maintained as manicured lawn since this approval. The lands the lot additions are merging with are also approved for development and have been maintained since their approval. There are no natural heritage concerns related to this application for severance.

In the opinion of the author of this report the requested consent is consistent with the Provincial Policy Statement.

3. COUNTY OF ESSEX OFFICIAL PLAN:

The subject lands are located within the settlement area in the County of Essex Official Plan. Section 3.2.3 of the County Plan states that future growth and development is encouraged to locate within the settlement areas designation.

Section 4.6.4 states that applications to create lots through the consent to sever process will continue to be the responsibility of local municipalities in accordance with the policies contained in local Official Plans.

The resulting consolidated severed and retained lots are within a settlement area and can be accessed by a municipal road.

4. TOWN OF AMHERSTBURG OFFICIAL PLAN:

The lands are designated Recreational Special Policy Area 6 in the Town's Official Plan which allow for residential land uses. The requested consents conform with relevant policies of the Official Plan specifically Section 6.1.2(6) being the Land Severance policies which provides for minor lot adjustments or lot boundary changes and Section 4.7 being the Recreational Development designation. The proposed resulting consolidated residential building lots are compatible with surrounding land uses and will be on full municipal services. Furthermore Section 4.3.7 of the Official Plan states:

It is anticipated that the residential component of development will take the form of a combination of dwelling types ranging from single detached dwellings to multi-family dwellings. Subject to the servicing capabilities, approximately 1800 units are anticipated as part of the development as well as commercial and recreational uses to serve the residents of the island.

Therefore, in the opinion of the author of this report the proposed uses on the land and lot additions are in conformity with the Official Plan.

5. COMPREHENSIVE ZONING BY-LAW 1999-52:

The subject property is zoned Resort Residential/Resort Commercial (RR/RC) Zone. The intended use of the consolidated severed and retained lots for single detached dwellings as indicated in the application, is a permitted use in the Resort Residential/Resort Commercial (RR/RC) Zone.

There are no minimum lot frontages or lot areas for lots created in the RR/RC Zone.

The proposed lot additions and proposed use of the subject parcels appears to be in conformity with the Zoning By-law.

In the opinion of the author of this report the proposed consent for residential lot creation is in conformity with the Zoning By-Law 1999-53, as amended.

6. AGENCY COMMENTS:

See attached.

7. RISK ANALYSIS:

As with all Committee of Adjustment decisions there is a risk that the decision is appealed. As a result of changes in Bill 23, decisions by a CoA can no longer be appealed by a third party. Decisions which are to support or refuse the consent or minor variance request, can only be appealed by the applicant, the Municipality, the Minister, a specified person or any public body. In the case of a consent decision the appeal must be filed within 20 days after the giving of notice of the decision of the committee, whereas for a minor variance an appeal must be filed within 20 days of the making of the decision of the committee. It is important to note that a tied vote is deemed to be a decision to deny the consent or minor variance request. If there is an appeal to the OLT the Town will incur costs.

8. RECOMMENDATIONS:

Based on the foregoing and subject to the Committee's consideration of written and oral submissions at the public meeting it is recommended that application **B/12/24 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. Subsection 3 of Section 50 of the Planning Act applies to any subsequent conveyance or transaction of or in relation to the parcels of land being the subject of the consent (severed and retained parcels).
5. That prior to the stamping of deeds the owner is to provide satisfactory evidence that the adjacent parcel is under consolidation relative to the parcels which are the subject of the consent.
6. That the applicant provide the municipality a grade design demonstrating that the consolidated severed and retained parcels will maintain their own rain water to the satisfaction of the municipality.
7. That the existing gazebo on the retained parcel be removed prior to the stamping of the deeds.

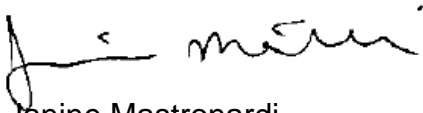
8. This consent will be deemed to be refused in accordance with the Planning Act if the above noted conditions are not met within two years from the date of this notice.

NOTE: All conditions are subject to the approval of The Town of the Amherstburg, but at no cost to the municipality.

9. CONCLUSION:

In the opinion of the author of this report the request for residential lot additions is in conformity with Sections 6.1.2 and 6.1.2(6) of Amherstburg's Official Plan and is consistent with the Provincial Policy Statement.

Respectfully submitted,



Janine Mastronardi
Secretary-Treasurer Committee of Adjustment

Report Approval Details

Document Title:	B-12-24- 296 Crystal Bay Drive.docx
Attachments:	- B-12-24- Report Attachments-RM.pdf
Final Approval Date:	Apr 26, 2024

This report and all of its attachments were approved and signed as outlined below:

Chris Aspila