



## 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.*

<b>Author's Name:</b> Janine Mastronardi	<b>Report Date:</b> April 26, 2024
<b>Author's Phone:</b> 519 736-5408 ext. 2134	<b>Date to Committee:</b> May 1, 2024
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**To:** Chair and Members of the Committee of Adjustment

**Subject:** A/13/24, 56 Rankin Street, 1174580 Ontario Limited, c/o Stephania Spanic, Agent

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#### 1. **RECOMMENDATION:**

It is recommended that:

1. Subject to the Committee's consideration of written and oral submissions at the public meeting that application A/13/24 **BE APPROVED** subject to the recommended conditions.

#### 2. **PROPOSAL:**

The applicants are requesting relief from Zoning By-law 1999-52, as amended, Section 9(3)(d) which requires a minimum interior side yard setback of 1.5 m on one side and 2.5 m on the other side where there is no attached private garage or attached carport in a Residential Third Density (R3) Zone.

The applicants are proposing a house addition and renovation. The existing west side of the house will remain as existing with a 1.67 ft setback which is considered to be a permitted non-conforming building location under Section 1(16) of the Zoning By-law. The addition is proposed to have a 1.5 m setback at its closest point from the east property line and increase along the depth of the addition. There are stairs proposed on the east side of the addition which access a mudroom that a small corner encroaches 0.18 m into this 1.5 m setback. Therefore, the amount of relief requested is 1.18 m in interior side yard width to permit a 1.32 m interior side yard setback from the east property line.

The subject property is designated Low Density Residential in the Town's Official Plan and is zoned Residential Third Density (R3) in the Town's Zoning By-law 1999-52.

### 3. **BACKGROUND:**

N/A

### 4. **PLANNING INFORMATION:**

Official Plan Designation: Low Density Residential

By-law No. 1999-52: Residential Third Density (R3) Zone

Existing Use: Residential

Proposed Use: Residential- No change in the number of structures, an addition and renovations proposed to the single detached dwelling

Neighboring Uses: residential

#### *TECHNICAL INFORMATION*

Property Size: 890.31 sq m

Existing structures: one single detached dwelling and one plastic shed

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Proposed Interior Side Yard Setback from East Property Line 1.32 m

Required Interior Side Yard Setback from East Property Line: 2.5 m

Relief requested: 1.18 m

### 5. **PLANNING ANALYSIS:**

#### **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.”

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 orderly development of safe and healthy communities;

The owner is permitted to renovate a single detached dwelling on the municipally serviced property in an existing residential development. The minor variance is required to allow for a reduced setback from the east property line.

When reviewing this application, the Committee must consider the four tests as outlined in Section 45(1) of the Planning Act, R.S.O. 1990, as amended, which states that the Committee be of the opinion that the variance:

- a) maintains the general intent and purpose of the Official Plan;
- b) maintains the general intent and purpose of the Zoning By-law;
- c) is desirable for the appropriate development or use of the land, building or structures; and
- d) is minor in nature.

The application must meet all of the above tests.

## **2. OFFICIAL PLAN POLICIES**

The subject property is designated Low Density Residential in Amherstburg's Official Plan. Section 4.3.1 of the Official Plan states, *'Areas designated as Low Density Residential shall be limited to single detached, semi-detached, duplex, or converted dwelling units, home occupation uses and public uses.'*

The applicant is proposing the renovation of a single detached dwelling on the property. The structure and use are permitted on lands designated Low Density Residential. As such, the proposed use is considered to be in keeping with the intent of the Official Plan.

In the opinion of the author of this report the proposed minor variance maintains the intent of the Official Plan.

## **3. ZONING BY-LAW**

The subject property is zoned Special Provision Residential Third Density (R3) Zone in Bylaw 1999-52, as amended. The R3 Zone permits single detached dwellings, semi-detached dwellings, duplex dwellings, lodging houses, bed and breakfast establishments, converted dwellings, existing places of worship, home occupations, public uses and accessory structures.

Section 9(3)(d) which requires a minimum interior side yard setback of 1.5 m on one side and 2.5 m on the other side where there is no attached private garage or attached carport in a Residential Third Density (R3) Zone.

The applicants are proposing the construction of an addition and renovation to the existing single detached dwelling. The addition to the east of the existing house will be 1.5 m from the property line with a small corner of the exterior stairs to access a mudroom are 1.32 m from the property line.

The intent of the larger setback on one side of a single detached dwelling that does not have an attached garage or carport in the Zoning By-law is to facilitate the location of a driveway along the side of the house along the property line. The subject parcel can accommodate the required 2 parking spaces within a driveway in the front yard. A recent survey has brought to light that the existing driveway is partially located beyond the east property line. The relocation of the driveway is included as a condition of minor variance which will also require moving an existing Cogeco pad at the applicant's expense.

All other setbacks and the height of the renovation comply with the R3 Zone provisions.

Therefore, the amount of relief requested is 1.18 m in interior side yard setback from the east property line.

In the opinion of the author of this report the requested variance maintains the intent of the Zoning By-law.

#### ***4. APPROPRIATE DEVELOPMENT***

The proposed variance does not change the use of the land for residential purposes and therefore can be considered appropriate. The applicant will have sufficient access to their rear yard and have provided the required two parking spaces for the use on the subject property. The site does not have a heritage designation nor is it on the properties of interest list. Given the area the elevation drawings have been reviewed by the Town's Heritage Planner. The design of the addition and renovation was considered to be sensitive to the context and character of the area.

In my opinion the proposed variance would not negatively impact any adjacent land uses.

#### ***5. MINOR IN NATURE***

No precise definition for what constitutes "minor" exists. Rather, it is a culmination of the review of the Official Plan, Zoning By-law and attempts to address the "big picture" for what the proposed development represents. Each application must be assessed on its own set of circumstances.

All of the remaining R3 Zone provisions and General Provisions are in compliance. The proposed use of the single detached dwelling is consistent with the Provincial Policy Statement and is in conformity with the Official Plan and Zoning by-law.

There appears to be no environmental concerns.

#### **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:**

That subject to Committee consideration of written and oral comments received at the meeting, it is recommended that Application A/13/24 be approved to grant relief of 1.18 m in interior side yard setback from the east property line to permit a 1.32 m setback subject to the following conditions;

- 1- That the driveway to 56 Rankin be relocated wholly on the subject property and be in compliance with the Town's Zoning By-law 1999-52, as amended and the Town's Right-of-Way Policy and that any incidental costs for the relocation of the existing Cogeco pad be at the expense of the applicant.
- 2- That a lot grading plan be prepared and submitted to the satisfaction of the municipality.

## **9. CONCLUSION:**

From a planning perspective in the opinion of the author of this report:

- 1) The requested variance conforms with the intent of the relevant Official Plan policies.
- 2) The proposed variance maintains the intent of Comprehensive Zoning By-law 1999-52, as amended.
- 3) The proposed variance does not change the use of the land for residential purposes and therefore can be considered appropriate.
- 4) The requested variance would appear to be minor in nature.

5) The proposed variance would not appear to have a negative impact on the environment.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Janine Mastronardi', written in a cursive style.

Janine Mastronardi  
Secretary-Treasurer

## Report Approval Details

Document Title:	A-13-24-56 Rankin Ave,1174580 Ontario Limited .docx
Attachments:	- A-13-24- 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