



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.

Author's Name: Janine Mastronardi	Report Date: May 24, 2024
Author's Phone: 519 736-5408 ext. 2134	Date to Committee: June 5, 2024
Author's E-mail: jmastronardi@amherstburg.ca	Resolution #:

To: Chair and Members of the Committee of Adjustment

Subject: A/16/24, 156 Dalhousie Street, Ryan Deslippe

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/16/24 **BE APPROVED** subject to the recommended condition.

2. PROPOSAL:

Purpose of Minor Variance Application A/16/24: The applicant is proposing the construction of a fence consisting of 6 ft decorative fencing, brick piers, a man gate and a 7 ft motorized vehicle gate flanked by 7 ft brick piers topped with coach lights.

The applicant is requesting relief from Fence By-law 2022-027, Part 2(2.1)(a) which permits the maximum height of a fence in a front yard to not exceed 0.9 meters (3 feet). The applicant is proposing to install a fence in the front yard with a height of 1.8 meters (6 feet).

The applicant is requesting relief from Fence By-law 2022-027, Part 2(2.2) which permits the maximum height of a gate to not exceed 2 meters (6 feet 6 inches) save and except if there is a decorative gate feature that projects no more than an additional 0.6 meters (2 feet). The applicant is proposing to install a 7 ft motorized vehicle gate in the front yard with a height of 2.13 meters (7 feet) flanked by 2.13 meters (7 feet) brick piers with (2 feet) coach lights on top.

Therefore, the amount of relief requested is 0.9 m (3 feet) in front yard fence height and 0.13 m (6 inches) in gate height.

The subject property is designated Low Density Residential in the Town's Official Plan and is zoned Special Provision Residential First Density (R1-8) 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:	Special Provision Residential First Density (R1-8) Zone
Existing Use:	Residential
Proposed Use:	Residential
Neighboring Uses:	North: residential and institutional (Fort Malden) South: residential East: institutional (Toddy Jones Park) West: Detroit River

TECHNICAL INFORMATION

Property Size:	1392.96 sq m (0.49 ac)
Existing structures:	One single detached dwelling

Proposed Fence Height in Front Yard:	1.8 m (6 ft)
Permitted Fence Height in Front Yard:	0.9 m (3 ft)
Relief requested:	0.9 m (3 ft)

Proposed Gate Height:	2.13 m (7 ft)
Permitted Gate Height:	2 m (6 ft 6 inches)
Relief requested:	0.13 m (6 inches)

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. 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 orderly development of safe and healthy communities;
- the appropriate location of growth and development;

The owner is permitted to erect a fence on the property in the front yard with a motorized gate. The minor variance is required because the proposed fence and gate are taller than what is currently permitted in the Fence By-law.

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 to erect a fence on the property which accessory to a single detached dwelling. 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 First Density (R1-8) Zone in Bylaw 1999-52, as amended. The R1-8 Zone permits single detached dwellings and accessory structures.

The proposed fence and gate are accessory to the single detached dwelling at 156 Dalhousie Street.

The requested variance maintains the intent of the Zoning By-law.

4. FENCE BY-LAW 2022-027

The subject property is zoned Special Provision Residential First Density (R1-8) Zone in Bylaw 1999-52, as amended.

Fence By-law 2022-027, Regulations for Residential Lots Part 2(2.1)(a) permits the maximum height of a fence in a front yard to not exceed 0.9 meters (3 feet). The applicant is proposing to install a fence in the front yard with a height of 1.8 meters (6 feet). The applicant is also requesting relief from Fence By-law 2022-027, Part 2(2.2) which permits the maximum height of a gate to not exceed 2 meters (6 feet 6 inches) save and except if there is a decorative gate feature that projects no more than an additional 0.6 meters (2 feet). The applicant is proposing to install a 7 ft motorized vehicle gate in the front yard with a height of 2.13 meters (7 feet) flanked by 2.13 meters (7 feet) brick piers with (2 feet) coach lights on top. Therefore, the amount of relief requested is 0.9 m (3 feet) in front yard fence height and 0.13 m (6 inches) in gate height.

The limit on the fence height in the front yard is to allow for sight lines. The fence will be erected approximately 4 m back from the pedestrian travelled sidewalk. The fence material proposed allows for sight lines through the pickets. The variance requested for the gate height and brick piers is for 6 inches in relief. The gate and brick piers are currently permitted by the Fence By-law to be 6 ft 6 inches in height. The additional 6 inches in height does not have a significant impact on visibility beyond what is already permitted.

The requested variance maintains the intent of the Fence By-law.

5. APPROPRIATE DEVELOPMENT

The proposed variances do not change the use of the land for residential purposes and therefore can be considered appropriate. The proposed variances would appear not to negatively impact any adjacent land uses.

The fence is proposed to be constructed on along the front property line. The front property line is approximately 4 m back from the Town sidewalk and the pedestrian travelled portion of the right-of-way.



Adam Coates, Planner specializing in Urban Design, provided the following comments, “The fencing is on private property and is set back from the public sidewalk by approximately 4 m. The public utilizing the sidewalk will not be directly next to the fence, and allows for some landscaped buffer space. The overall design of the fence is in keeping with the design utilized around Fort Malden, with vertical metal pickets and decorative finials. The main vertical supports are masonry which also complements design of the adjacent Fort Malden gated entrance.”

6. MINOR IN NATURE

No precise definition for what constitutes “minor” exists. Rather, it is a culmination of the review of the Official Plan, applicable by-laws including the 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.

The proposed individual variances do not appear to change the character of the neighbourhood.

There appears to be no environmental concerns.

7. AGENCY COMMENTS:

See attached.

Consultations:

Bill Tetler, Manager of Licensing and Enforcement

Adam Coates, Planner

Chris Aspila, Manager, Planning Services

8. 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.

9. RECOMMENDATIONS:

That subject to Committee consideration of written and oral comments received at the meeting, it is recommended that the Application A/16/24 request to grant relief of 0.9 m (3 feet) in front yard fence height and 0.13 m (6 inches) in gate height to allow a fence in the front yard with a height of 1.8 meters (6 feet) with a motorized vehicle gate with a height of 2.13 meters (7 feet) flanked by 2.13 meters (7 feet) brick piers with (2 feet) coach lights on top **BE APPROVED** subject to the following condition;

- 1- That the fence design and construction be consistent with the drawings submitted as part of the minor variance application.

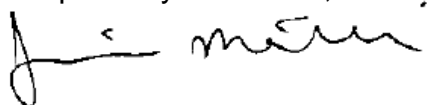
10. CONCLUSION:

From a planning perspective:

- 1) The request for variances conform with the intent of the relevant Official Plan policies.
- 2) a. The proposed variance for relief for fence and gate height maintains the intent of the Zoning By-law 1999-52, as amended.

b. The proposed variance for relief for fence and gate height maintains the intent of Fence By-law 2022-027, as amended.
- 3) The proposed variances do not change the use of the land for residential purposes and therefore can be considered appropriate.
- 4) The requested variances appear to be minor in nature.
- 5) The proposed variances would not appear to have a negative impact on the environment.

Respectfully submitted,



Janine Mastronardi
Secretary-Treasurer Committee of Adjustment

Report Approval Details

Document Title:	A-16-24, 156 Dalhousie Street, Ryan Deslippe.docx
Attachments:	
Final Approval Date:	May 21, 2024

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

Chris Aspila