



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: July 3, 2024
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To: Chair and Members of the Committee of Adjustment

Subject: A/22/24, 250 Seymour Street, Dave and Deanne Labutte, c/o Donato DiGiovanni, 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 A/20/24 **BE APPROVED** subject to the recommended conditions.

2. **PROPOSAL:**

Purpose of Minor Variance Application A/22/24: The applicants are requesting relief from Zoning By-law 1999-52, as amended, Section 3(1)(c) which permits a maximum height of 5.5 m (18 ft) of an accessory structure measured to the peak of the roof in a residential zone.

The applicant is proposing the construction of a 728 sq ft accessory structure to contain additional recreational space (no living quarters) on the first floor accessory to the primary dwelling and a secondary dwelling unit on the second floor with a height of 7 m (23 ft) to the peak of the roof. Therefore, the amount of relief requested is 1.5 m (5 ft) in accessory structure height.

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

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

Neighboring Uses: residential and institutional (town hall)

TECHNICAL INFORMATION

Proposed Accessory Structure Height: 7 m (23 ft)

Permitted Accessory Structure Height: 5.5 m (18 ft)

Relief requested: 1.5 m (5 ft)

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.4.”

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 an accessory structure containing a secondary dwelling unit on the municipally serviced property in an existing residential development. The minor variance is required to allow for an increase in height of the accessory structure.

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 construction of an accessory structure which will contain on the first floor personal recreation room (no living quarters) accessory to the primary dwelling and a secondary dwelling unit on the second floor. 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 my opinion the proposed minor variance maintains the intent of the Official Plan.

3. ZONING BY-LAW

The subject property is zoned Residential Third Density (R3) Zone in Bylaw 1999-52, as amended. The R3 Zone permits single detached dwellings and accessory structures.

Section 3(1)(c) which permits a maximum 5.5 m (18 ft) height of an accessory structure measured to the peak of the roof in residential zones.

The applicant is proposing the construction of a 67.6 sq m (728 sq ft) accessory structure to contain a recreational space accessory to the primary dwelling on the first floor and a secondary dwelling unit on the second floor with a height of 7 m (23 ft) to the peak of the roof.

The existing single detached dwelling has a height of 4.88 m (16 ft). All other provisions of the Zoning By-law are in compliance including the setback between the primary and secondary dwelling units which is proposed at 11.13 m (36.5 ft).

Therefore, the amount of relief requested is 1.5 m (5 ft) in accessory structure height.

In my opinion 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 the use can be considered appropriate. The proposed variance would appear not to negatively impact any adjacent land uses. Lot grading design will be submitted and approved by the municipality and is required to be implemented as part of the building permit process.

The accessory structure is proposed to be built in the back corner of the property which abuts the Town Hall/Fire Station property and parking lot. While the height of the primary dwelling is 4.88 m (16 ft), less than the proposed 7 m (23 ft) accessory structure, there is no loss of privacy as a result of the requested height relief.

The properties located along Sandwich Street South are designed General Commercial in the Town Official Plan and any redevelopment is permitted a maximum height of five storeys subject to a zoning by-law amendment.

It is the opinion of the author of this report that the proposed variance will not have a negative impact on the neighbourhood.

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.

The proposed increase in height does not change the character of the neighbourhood. There is a variety of uses in the Seymour, Richmond, Sandwich, Gore block which include institutional, commercial, low density residential and multi residential which range from single to two storey buildings.

All of the remaining R3 zone provisions and General Provisions are in compliance. The proposed use of the accessory structure as a secondary dwelling unit 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/22/24 be approved to grant relief in accessory structure height of 1.5 m (5 ft) to allow for the construction of an accessory structure with a footprint of 67.6 sq m (728 sq ft) to contain recreational space accessory to the primary dwelling on the first floor and a secondary dwelling unit on the second floor with a height of 7 m (23 ft) to the peak of the roof subject to the following conditions;

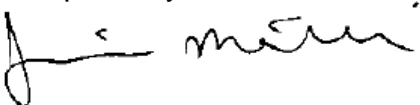
1. That the applicant prepare and implement a lot grading design for the subject property, to the satisfaction of the municipality.
2. That the total lot coverage of accessory structures does not exceed 10% of the lot area as per Zoning By-law 1999-52, as amended, Section 3(1)(b).

9. CONCLUSION:

From a planning perspective:

- 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 have a negative impact on the environment.

Respectfully Submitted,



Janine Mastronardi
Secretary-Treasurer

Report Approval Details

Document Title:	A-22-24, 250 Seymour Street, Dave and Deanne Labutte.docx
Attachments:	- A-22-24- Report Attachments-RM.pdf
Final Approval Date:	Jun 26, 2024

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

Chris Aspila