



THE CORPORATION OF THE TOWN OF AMHERSTBURG

OFFICE OF DEVELOPMENT SERVICES

Mission Statement: As stewards of the Town of Amherstburg, we strive to improve the quality of life of all residents through the delivery of effective, efficient, and affordable services.

Author's Name: Sarah French	Report Date: June 26, 2024
Author's Phone: 519 736-5408 ext. 2145	Date to Committee: July 3, 2024
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To: Chair and Members of the Committee of Adjustment

Subject: A-24-24, 208 St. Arnaud Street, 1243470 Ontario Ltd.

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/24/24 **BE APPROVED**.

2. PROPOSAL:

Purpose of Minor Variance Application A/24/24: The applicants are requesting relief from Zoning By-law 1999-52, as amended, Section 20(3)(c)(iv) which requires a minimum rear yard depth of 8 m (26.24 ft) within the Light Industrial (LI) Zone.

The applicants are proposing the replacement of the existing storage structure on the property with a 75 ft by 120 ft (9000 sq. ft.) warehouse. The existing storage structure on the property currently has a rear yard setback of 2 m (6.56 ft). The applicants are proposing to locate the new warehouse 3.07 m (10.08 ft) from the rear property line, therefore increasing the existing setback. However, since the proposal is for a new structure with a larger footprint than the existing structure, the 8 m minimum setback would apply. Therefore, the amount of relief requested is 4.93 m (16.17 ft) in rear yard depth.

The subject lands are designated Light Industrial in the Town's Official Plan and zoned Light Industrial (LI) Zone in the Zoning By-law 1999-52.

3. BACKGROUND:

N/A

4. PLANNING INFORMATION:

Official Plan Designation:	Light Industrial
By-law No. 1999-52:	Light Industrial (LI) Zone
Existing Use:	Storage Building and Residential
Proposed Use:	Replace Storage Building with Warehouse, Residential to remain
Neighboring Uses:	North: industrial (Diageo) South: residential East: residential (zoned Light Industrial (LI) Zone) and industrial West: industrial

TECHNICAL INFORMATION

Property Size:	0.32 ha (0.78 ac)
Existing structures:	Single detached dwelling, detached garage, approximately 350 sq. m. (3767 sq. ft.) storage structure

Proposed Rear Yard Setback:	3.07 m (10.08 ft)
Required Rear Yard Setback:	8 m (26.25 ft)
Existing Rear Yard Setback:	2 m (6.56 ft)
Relief requested:	4.93 m (16.17 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”

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 adequate provision of employment opportunities;

The proposal is for the replacement of the existing storage structure with a new 9000 sq. ft. warehouse for the storage of electrical contractor’s supplies. The variance is required because while the existing structure sits 2 m from the property line, the zoning by-law only permits the replacement of non-conforming setbacks with a structure on the same footprint. The applicants are proposing a structure that is larger than the existing structure. The warehouse is proposed to be set 3.07 m from the rear property line. The subject site has industrial uses or zoning abutting it on 3 sides.

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 Light Industrial in Amherstburg’s Official Plan. Section 4.5.1 of the Official Plan states:

The uses permitted in the Light Industrial designation shall be limited to those industrial uses which have limited or restricted open storage and may include workshops, warehousing, service shops, processing, manufacturing and assembling operations, offices, medical/dental clinics, laboratories and research facilities, communication facilities, and printing and publishing plants. This designation does not allow, however, for major bulk storage operations such as grain elevators, fuel storage, etc., which are included in the Heavy Industrial category. Agricultural uses may continue to exist until the area is ready for Industrial uses. Depending on the location and the associated industrial use, the implementing Zoning Bylaw may permit a dwelling unit associated with the industrial uses.

The type of Light Industrial use permitted shall be such that there are minimal adverse effects on adjoining Residential land uses as the result of the emission of noise, smoke, dust, or odour.

Adequate off-street parking facilities shall be provided for all permitted uses, including industrial employee and visitor parking areas.

Adequate off-street loading and unloading facilities shall be provided.

Adequate buffer planting shall be provided between the Industrial areas and any adjacent Residential areas and such buffer planting may include provisions for grass strips, berms, screening, appropriate planting of trees and shrubs, or distance.

All new developments in the Light Industrial category shall be subject to site plan control as provided for by The Planning Act.

The Light Industrial uses may be placed in a separate zoning classification(s) in the implementing Zoning By-Law.

The applicants are proposing a warehouse on the property with no outdoor storage and adequate off-street loading and parking facilities. The reduced setback abuts an existing large-scale industrial use. The property has an existing residence within the front portion of the site, therefore providing buffering for the residents living across the street on St. Arnaud.

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 Light Industrial (LI) Zone in Bylaw 1999-52, as amended. The LI Zone permits many industrial uses including warehousing. The LI Zone provides setbacks for buildings depending on the location of the subject site and if it abuts residential zones. The subject site only abuts a residential zone to the south and has the existing house and St. Arnaud Street between the proposed warehouse and the existing residential uses. Additionally, there are existing residential uses directly to the east of the subject site, however the properties are also zoned Light Industrial, meaning that a 3 m interior setback is required. The majority of the proposed warehouse abuts another existing warehouse, however the front portion will abut the rear yard of 214 St. Arnaud. Due to the industrial zoning and uses within the area, the location of the building is appropriate and maintains the setbacks from the Zoning By-law, with the exception of the requested variance.

Section 3.20(a) provides an exemption for the rebuilding of existing buildings on a non-conforming setback. However, the applicants are proposing to enlarge the structure, so they require a variance for the proposed non-conforming setback. They are proposing to increase the existing 2 m rear yard setback to 3.07 m.

NON-CONFORMING USES AND LOTS REBUILDING OR REPAIR PERMITTED

Nothing in this By-law shall prevent the rebuilding or repair of an existing permitted building or structure, even though such building or structure or the lot on which such building or structure is located does not conform to one or more of the provisions of this By-law, provided that the dimensions of the original building or structure are not

increased, the use thereof is not altered, and the yards appurtenant thereto are not reduced except in accordance with the provisions of this By-law.

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 industrial purposes and therefore can be considered appropriate. The proposed variance does appear not to negatively impact any adjacent land uses.

The area immediately adjacent to the subject site contains light industrial uses including Diageo Canada and larger scale warehouses.

5. 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 variance does not appear to change the character of the neighbourhood.

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.

8. RECOMMENDATION:

That subject to Committee consideration of written and oral comments received at the meeting, it is recommended that the Application A/24/24 request to grant relief of 4.93 m (16.17 ft) in rear yard depth for the proposed warehouse to allow a rear yard depth of 3.07 m (10.08 ft) **BE APPROVED.**

9. CONCLUSION:

From a planning perspective:

- 1) The request for variance conforms with the intent of the relevant Official Plan policies.
- 2) The proposed variance for relief of rear yard setback maintains the intent of the Zoning By-law 1999-52, as amended.
- 3) The proposed variance does not change the use of the land for industrial purposes and therefore can be considered appropriate.
- 4) The requested variance appears to be minor in nature.
- 5) The proposed variance would not appear to have a negative impact on the environment.



Sarah French
Secretary-Treasurer to the Committee of Adjustment

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Report Approval Details

Document Title:	A-24-24 208 St Arnaud 1243470 Ontario Ltd.docx
Attachments:	<ul style="list-style-type: none">- Appendix A - A-24-24- Notice- 208 St. Arnaud-RM.pdf- Appendix B - A-24-24 - Application_Redacted-RM.pdf- Appendix C - A-24-24 Aerial Map-RM.pdf- Appendix D - A-24-24 SITE PLAN REVISED JUN 19-RM.pdf- Appendix E - A-24-24 Site Photos-RM.pdf- Appendix F - Council Circulation List and Buffer-RM.pdf- Appendix G - Summary of Correspondence Received on A-24-24-RM.pdf- Appendix H - A-24-24- PowerPoint-RM.pdf
Final Approval Date:	Jun 26, 2024

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

Chris Aspila