



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: June 26, 2024
Author's Phone: 519 736-5408 ext. 2134	Date to Committee: July 3, 2024
Author's E-mail: jmastronardi@amherstburg.ca	Resolution #:

To: Chair and Members of the Committee of Adjustment

Subject: A/21/24, 94 Gore Street, Ryan D'Alimonte, 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/21/24 be deferred.

2. PROPOSAL:

Purpose of Minor Variance Application A/21/24: The applicant is requesting relief from Zoning By-law 1999-52, as amended, Section 12(3)(d) which requires a minimum interior side yard width of 1.5 m, Section 12(3)(g) which permits a maximum lot coverage of 40% and permission to build to a maximum height of 8.5 m to the ridge.

The applicant is proposing the construction of a new single detached dwelling with attached garage with an interior side yard setback of 1.2 m, a total lot coverage 44.3% and an 8.5 m height to the ridge. Therefore, the amount of relief requested is 4.3% in total lot coverage, 0.3 m in interior side yard setback and permission for an 8.5 m height to the ridge.

The subject property is designated Heritage Residential in the Town's Official Plan and zoned Residential Heritage (RH) Zone in the Town's Zoning By-law.

3. BACKGROUND:

The subject property is not designated nor is it on the properties of interest list. However, on June 25, 2024 Town Council approved the Heritage Conservation District boundary. The subject property is within this boundary.

A Heritage Conservation District report and by-law are being considered at the Regular Council meeting on July 8, 2024. The agenda will be published on June 26, 2024. The published agenda will be shared with the Committee for additional information to supplement this report.

4. PLANNING INFORMATION:

Official Plan Designation:	Heritage Residential
By-law No. 1999-52:	Residential Heritage (RH) Zone
Existing Use:	Residential- one single detached dwelling
Proposed Use:	Residential- Demolish existing single detached dwelling and build new single detached dwelling with attached garage
Neighboring Uses:	residential

TECHNICAL INFORMATION

Property Size:	335.77 sq m (3614.25 sq ft)
Lot Frontage:	12.04 m (39.5 ft)
Existing structures:	single detached dwelling to be demolished

Proposed Interior Side Yard Width:	1.2 m
Required Interior Side Yard Width:	1.5 m
Relief requested:	0.3 m

Proposed Lot Coverage:	44.3 m
Permitted Lot Coverage:	40%
Relief requested:	4.3%

Proposed Building Height:	8.5 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 must be 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 conservation of features of significant architectural, cultural, historical, archaeological or scientific interest;
- 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; and
- the promotion of built form that,
 - (i) is well-designed,
 - (ii) encourages a sense of place, and
 - (iii) provides for public spaces that are of high quality, safe, accessible, attractive and vibrant.

The owner is permitted to build a single detached dwelling with attached garage on the municipally serviced property in an existing residential development. The minor variance is required to allow for a decreased interior side yard, increased lot coverage and a height of 8.5 m. Consideration must also be given for the location of the subject property within the Heritage Residential designation in the Official Plan and the location being within the boundary for the proposed Heritage Conservation District approved by Council on June 25, 2024.

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 Heritage Residential in Amherstburg's Official Plan. Section 4.3.5 of the Official Plan states areas designated as Heritage Residential "shall include single detached, semi-detached, duplex, or converted dwelling units as well as rooming and boarding houses, bed and breakfast establishments, existing churches and public uses."

The applicant is proposing the construction of a single detached dwelling with an attached garage on the property. The front yard setback proposed is to be approximately 4.5 m. Section 4.3.5 continues to state, "Due to the size of many of the lots and the location of the units almost on the front property line, there should be no minimum lot area or frontage, while front yard depth should be in keeping with adjacent properties in order to maintain a uniform streetscape."



Within the block the subject property is located the front yard setbacks range between 1.37 m and 3.1 m. Due to the house design and location of the attached garage the applicant is proposing a front yard setback of 4.5 m.

The use and requested relief are permitted on lands designated Heritage Residential however, the Committee must consider if the proposal as a whole maintains the intent of the Official Plan.

3. ZONING BY-LAW

The subject property is zoned Residential Heritage (RH) Zone in Bylaw 1999-52, as amended. The RH Zone permits single detached dwellings, semi-detached dwellings, duplex dwellings, converted dwellings, lodging house, bed and breakfast establishments, existing places of worship, accessory structures and public uses.

The applicant is proposing the demolition of the existing structure and the construction of a new single detached dwelling with attached garage with an interior side yard setback of 1.2 m, lot coverage of 44.3% (1601 sq ft) and a building height of 8.5 m to the peak of the roof.

Section 12(3)(d) requires a minimum interior side yard width of 1.5 m in a Residential Heritage (RH) Zone. Section 12(3)(g) permits a maximum lot coverage of 40% in a Residential Heritage (RH) Zone. Section 12(3)(j) permits the following for the height;

“Parapet line for buildings located on a corner: The top of the highest projection along the facade may be no more than 50 cm higher than the highest parapet line along the block in which the building is situated. Any new building replacing a damaged building should be built to the height of the original building.

Parapet line for buildings located between two other buildings: The top of the highest projection along the facade may be no more than 50 cm higher than the higher parapet line of the two adjacent buildings.

Roof line: If a roof is flat, it shall be located lower than the parapet. If a roof is sloped, its ridge shall be parallel to the street and shall be no higher than the highest ridge or parapet on the block on which the building is situated.

Chimneys are not included in these height restrictions.”

It has been acknowledged by Administration that confirmation of an exact height permitted as described above in Section 12(3)(j) is not feasible with the resources available to the Town. Direction was provided that permission be sought for the proposed height of 8.5 m to the peak of the roof as this height is in line with the scale and massing of the neighbourhood to ensure compliance with the Zoning By-law.

The 1.5 m interior side yard setback is required for minimum spatial separation. The Chief Building Official comments acknowledge that there are ways to ensure Ontario Building Code spatial separation requirements are maintained with the proposed 1.2 m interior side yard setback.

The RH Zone permits a maximum lot coverage of 40% to acknowledge the small size of the lots in this Zone. The application is proposing 44.3% (1601 sq ft) for the building footprint which includes an attached garage and small covered porch.

Therefore, the amount of relief requested is 0.3 m in interior side yard width, 4.3 % in lot coverage and permission is being sought for a building height of 8.5 m.

If the Committee determines the request for lot coverage maintains the intent of the zoning By-law it is noted that if the rear yard is maintained as permeable surface totalling approximately 21% (790 sq ft) of the lot area this will comply with the required 20% landscaped open space minimum in the RH Zone and could be noted as a condition of approval.

The Committee must determine if the requested variances maintain 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 Committee must determine if the proposed variances which facilitate the proposed development as a whole is desirable and the appropriate development of the land and if the proposed variances would negatively impact any adjacent land uses.

The Committee must also determine if it is premature to consider the application for minor variance for redevelopment of a property within the approved boundary of the proposed Heritage Conservation District and withhold a decision until after Council has an opportunity to consider and provide direction on the Heritage Conservation District report and by-law going before them for consideration on July 8, 2024.

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 individual variances will need to be considered to determine if they change the character of the neighborhood and if there are any physical hazards associated with the proposed variances.

6. AGENCY COMMENTS:

See attached.

The Heritage Committee was consulted on this proposal due to its location within the Heritage Residential designation. The property at 94 Gore is not designated nor is it on the properties of interest list under the *Ontario Heritage Act*, however it has been acknowledged as a contributing property to the proposed Heritage Conservation District. The Heritage Committee provided recommendations on design but these recommendations are not required to be implemented.

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/21/24 be deferred pending a Council decision regarding the Heritage Conservation District report and by-law being considered at the Regular Council meeting on July 8, 2024.

9. CONCLUSION:

If the Committee does not determine it appropriate to defer the application at this time it is noted that from a planning perspective the Committee will have to determine if the proposed minor variance passes the four tests of a minor variance;

- 1) Do the requested variances conform with the intent of the relevant Official Plan policies;
- 2) Do the proposed variances maintain the intent of Comprehensive Zoning By-law 1999-52, as amended;
- 3) Do the proposed variances change or not change the use of the land for residential purposes and therefore cannot or can be considered appropriate; and
- 4) Do the requested variances would appear to be minor in nature?

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Janine Mastronardi". The signature is written in a cursive, flowing style.

Janine Mastronardi
Secretary-Treasurer

Report Approval Details

Document Title:	A-21-24,94 Gore Street, Ryan D'Alimonte.docx
Attachments:	- A-21-24- Report Attachments-RM.pdf
Final Approval Date:	Jun 27, 2024

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

Chris Aspila