



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: November 6, 2024
Author's E-mail: jmastronardi@amherstburg.ca	Resolution #:

To: Chair and Members of the Committee of Adjustment

Subject: A/40/24, 2001 Front Road North, Stephen Halls and Amy Lee

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/40/24 **BE APPROVED** subject to the recommended condition.

2. PROPOSAL:

The applicant is requesting relief from Zoning By-law 1999-52, as amended, Section 3(1)(c) which permits a maximum height of 5.5 m in for an accessory structure in a Residential Zone.

The subject property is designated Low Density Residential, Agricultural, Provincially Significant Wetland and Natural Environment in the Town's Official Plan and zoned Residential Type 1A (R1A), Wetland (W) and Environmental Protection (EP) in the Town's Zoning By-Law. The proposed structure is located wholly within the R1A Zone.

The applicant is proposing the construction of a 32 ft x 48 ft, 1536 sq ft, accessory structure to contain personal vehicle storage including equipment used for property maintenance on the first floor and personal storage on the second floor with a height of 7.8 m (25.7 ft) to the peak of the roof. A secondary dwelling unit is not proposed.

The applicant is also proposing the construction of a single detached dwelling in the same design as the accessory structure with the exact same height. Zoning relief is not required for the dwelling.

Therefore, the amount of relief requested is 2.3 m in accessory structure height.

3. BACKGROUND:

N/A

4. PLANNING INFORMATION:

Official Plan Designation:	Low Density Residential, Agricultural, Provincially Significant Wetland and Natural Environment
By-law No. 1999-52:	Residential Type 1A (R1A), Wetland (W) and Environmental Protection (EP)
Existing Use:	vacant residential
Proposed Use:	residential
Neighboring Uses:	North: residential and agricultural South: residential and agricultural East: natural environment West: residential

TECHNICAL INFORMATION

Property Size:	7.89 ha
Existing structures:	single detached dwelling and one accessory structure (1536 sq ft detached garage with 2 nd floor storage)

Proposed Accessory Structure Height:	7.8 m (25.7 ft)
Permitted Accessory Structure Height:	5.5 m (18 ft)
Relief requested:	2.3 m (7.7 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 proposing the construction of a new single detached dwelling and new accessory structure in the same style with the same roof height. The owner is permitted to erect an accessory structure on the property in an existing rural residential area. The minor variance is required to allow for an increase in height of an 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, Agricultural, Provincially Significant Wetland and Natural Environment in Amherstburg’s Official Plan. The proposed accessory structure is to be located within the Agricultural designation. Section 3.2.1(16) of the Official Plan allows for residential uses on existing lots of record.

The applicant is proposing the construction of an accessory structure which will contain personal vehicle storage including equipment used for property maintenance on the first floor and personal storage on the second floor. The structure and use are permitted on the portion of the lands designated Agricultural. As such, the proposed use is considered to be in keeping with the intent of the Official Plan.

At the request of the property owner the Town’s natural heritage consultant was engaged to review the property to determine the most easterly the new single detached dwelling could be built. A professional opinion was obtained that an adequate setback of 15 m from the edge of the cultivated lands would be required. This results in a 30 m setback from the wetland feature.

Administration has reviewed the propose accessory structure located on the west side of the new dwelling in the context of where the wetland is located in relation to approved location for the new dwelling. It is recommended that no additional mitigation measures are required given the location of the new single detached dwelling and the proposed accessory structure to the wetland feature.

The proposed minor variance maintains the intent of the Official Plan.

3. ZONING BY-LAW

The subject property is zoned Residential Type 1A (R1A), Wetland (W) and Environmental Protection (EP) Zones in Bylaw 1999-52, as amended. The proposed accessory structure is located wholly within the R1A Zone which permits single detached dwellings and accessory structures.

Section 3(1)(c) permits a maximum 5.5 m (18 ft) height of an accessory structure measured to the peak of the roof. Section 3(1)(d)(vi) permits a garage in a front yard, but not a required front yard, within any Residential Zone. A private garage is defined to mean “an accessory building or structure, or a portion of a building, which is used or intended to be used for the sheltering of vehicles and in which there are no facilities for repairing or servicing such vehicles for gain or profit, and includes a partially enclosed carport.”

The applicant is proposing the construction of a new single detached dwelling and a 32 ft x 48 ft, 1536 sq ft accessory structure to contain personal vehicle storage including equipment used for property maintenance on the first floor and personal storage on the second floor with a height of 7.8 m (25.7 ft) to the peak of the roof in a front yard but not the required front yard. A secondary dwelling unit is not proposed within the structure. The height of the single detached dwelling and accessory structure are proposed to be the same with the height measured from average grade.

“Grade or Grade, Average Finished means the average level of finished ground adjoining a building or structure at all exterior walls, as determined by the Chief Building Official.” The Chief Building Official has reviewed the submitted drawings and has confirmed the height of the accessory structure to be 7.8 m (25.7 ft) to the peak of the roof based on the average finished grade.

Therefore, the amount of relief requested is 2.3 m (7.7 ft) in accessory structure height.

The proposed structure complies with all other provisions of the Zoning By-law including with compliance with all setbacks and the maximum accessory structure lot coverage in an R1A Zone of 185 sq m (1991 sq ft).

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 rural residential purposes and therefore be considered appropriate. The proposed variance would appear not to negatively impact any adjacent land uses. Lot grading design has been submitted and

approved by the municipality and is required to be implemented as part of the building permit process.

The structures are proposed to be setback over 500 ft from County Road 20. The single detached dwelling and accessory structure are proposed to have the same height. The structure is proposed to provide space for personal storage on the second floor and vehicle storage on the first floor including personal vehicles and yard maintenance equipment. The structure does not impede on any neighbouring properties or neighbouring uses and is setback from the road so as to not impact the streetscape of Front Road North. There are many large accessory structures in the area as well.

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 accessory structure height does not change the character of the neighbourhood. The primary dwelling on the property is proposed to have the identical height of the proposed accessory structure. The proposed accessory structure is smaller than the primary dwelling in footprint and gross floor area.

All of the remaining R1A zone provisions and General Provisions are in compliance. The proposed use of the accessory structure is in conformity with the Official Plan and maintains the intent of the Zoning by-law.

Consultation with the Town’s natural heritage consultants occurred prior to the applicant locating the single detached dwelling and accessory structure on the site plan. The location of the structures complies with the professional recommendation provided. 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/40/24 **be approved** to grant relief in accessory structure height of 2.3 m (7.7 ft) to allow for the construction of an accessory structure to contain personal vehicle storage including equipment used for property maintenance on the first floor and personal storage on the second floor with a height of 7.8 m (25.7 ft) to the peak of the roof from average finished grade.

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 rural 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-40-24, 2001 Front Road North, Stephen Halls and Amy Lee.docx
Attachments:	<ul style="list-style-type: none">- A-40-24- Notice- 5001 Front Rd. N-RM.pdf- A-40-24 - Application_Redacted-RM.pdf- 2001 Front Rd N- House Drawings- RM.pdf- Aerial Map-RM.pdf- Aerial Map with zoning-RM.pdf- Summary of Correspondence Received on A-40-24- RM.pdf- A-40-24 PowerPoint- RM.pdf
Final Approval Date:	Oct 31, 2024

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

Chris Aspila