



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: November 1, 2024
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: B/22/24 & A/38/24, 86 Willow Beach Road, Gerald Goodchild

1. RECOMMENDATION:

It is recommended that:

1. Subject to the Committee's consideration of written and oral submissions at the public meeting that application B/22/24 **BE APPROVED** subject to the recommended conditions.
2. Subject to the Committee's consideration of written and oral submissions at the public meeting that application A/38/24 **BE APPROVED**.

2. PROPOSAL:

Purpose of Application B/22/24: The applicant is proposing to sever a parcel of land being 18.9 m ± frontage by 45.72 m ± depth with an area of 864 sq m ± to create a new residential building lot for a single detached dwelling.

The remaining parcel being 17.7 m ± frontage by 45.72 m depth with a total area of 808.25 sq m ± contains a single detached dwelling and one accessory structure.

Purpose of Application A/38/24: The applicant is requesting relief from Zoning By-law 1999-52, as amended, Section 6(3)(a) which requires a minimum lot area of 900 sq m and from Section 6(3)(b) which requires a minimum lot frontage of 20 m both for parcels created in a Residential Type 1A (R1A) Zone. Subsequent to B/22/24; the severed parcel will have a lot area of 864 sq m ± and a lot frontage of 18.9 m ±, the retained parcel will have a lot area of 808.25 sq m ± and a lot frontage of 17.7 m ±. The applicant is also seeking permission for the existing accessory structure to remain as existing subject to confirmation of the location of the structure being wholly within the subject property.

TECHNICAL INFORMATION

Proposed Lot Area of Severed Parcel:	864 sq m
Proposed Lot Area of Retained Parcel:	808.25 sq m
Required Lot Area:	900 sq m
Relief Requested Severed Parcel:	36 sq m
Relief Requested Retained Parcel:	91.75 sq m

Proposed Lot Frontage for Severed Parcel:	18.9 m
Proposed Lot Frontage for Retained Parcel:	17.7 m
Required Lot Frontage:	20 m
Relief Requested for Severed Parcel:	1.1 m
Relief Requested for Retained Parcel:	2.3 m

5. PLANNING ANALYSIS:

In the review of the subject application, a number of points have been reviewed:

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 adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems;
- 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.

The proposed severance for lot creation are within a settlement area. The conditions of consent are proposed to ensure orderly development of the severed lots.

When considering the severance application, under Section 53 of the Planning Act, R.S.O. 1990, as amended, the Committee may consider an application for consent if they are satisfied that a plan of subdivision is not necessary for orderly development of the land. In this case, the applicant is applying for the creation of one infill residential building lot within an existing subdivision development on an existing right-of-way with municipal water and sanitary and storm sewers. A plan of subdivision is not necessary.

When considering the minor variance 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. PROVINCIAL POLICY STATEMENT:

The Provincial Planning Statement is a policy statement issued under the authority of section 3 of the *Planning Act* and came into effect on October 20, 2024. The Provincial Planning Statement applies to all decisions in respect of the exercise of any authority that affects a planning matter made on or after October 20, 2024.

In respect of the exercise of any authority that affects a planning matter, section 3 of the *Planning Act* requires that decisions affecting planning matters shall be consistent with policy statements issued under the Act.

The Provincial Planning Statement provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment. The Provincial Planning Statement supports improved land use planning and management, which contributes to a more effective and efficient land use planning system.

Terms used in this section of the report in *italics* are defined in the PPS and have specific meaning.

The following policy excerpts from the PPS are particularly applicable to the subject application:

Chapter 2: Building Homes, Sustaining Strong and Competitive Communities

2.3 Settlement Areas and Settlement Area Boundary Expansions

2.3.1 General Policies for Settlement Areas

1. *Settlement areas* shall be the focus of growth and development. Within *settlement areas*, growth should be focused in, where applicable, *strategic growth areas*, including *major transit station areas*.
2. Land use patterns within *settlement areas* should be based on densities and a mix of land uses which:
 - a) efficiently use land and resources;
 - b) optimize existing and planned *infrastructure* and *public service facilities*;
 - c) support *active transportation*;
 - d) are *transit-supportive*, as appropriate; and
 - e) are *freight-supportive*.
3. Planning authorities shall support general *intensification* and *redevelopment* to support the achievement of *complete communities*, including by planning for a range and mix of *housing options* and prioritizing planning and investment in the necessary *infrastructure* and *public service facilities*.
4. Planning authorities shall establish and implement minimum targets for *intensification* and *redevelopment* within built-up areas, based on local conditions.
5. Planning authorities are encouraged to establish density targets for *designated growth areas*, based on local conditions. *Large and fast-growing municipalities* are encouraged to plan for a target of 50 residents and jobs per gross hectare in *designated growth areas*.
6. Planning authorities should establish and implement phasing policies, where appropriate, to ensure that development within *designated growth areas* is orderly and aligns with the timely provision of the *infrastructure* and *public service facilities*.

The proposed consent application appears to be consistent with the PPS as it facilitates a building lot for residential infill development within a settlement area. The severed and retained lots are/will be serviced with municipal water, municipal storm sewers and municipal sanitary sewers.

Chapter 5: Protecting Public Health and Safety

5.1 General Policies for Natural and Human-Made Hazards

1. Development shall be directed away from areas of natural or human-made hazards where there is an unacceptable risk to public health or safety or of property damage, and not create new or aggravate existing hazards.

The risk to the dwelling on the proposed new building lot is mitigated by Amherstburg Emergency Services capabilities to provide response services through operating procedures and equipment confirmed available in the Fire Department comments. Therefore, the risk would not be deemed “unacceptable”.

5.2 Natural Hazards

3. *Development and site alteration* shall not be permitted within:
 - a) the *dynamic beach hazard*;
 - b) *defined portions of the flooding hazard along connecting channels* (the St. Marys, St. Clair, Detroit, Niagara and St. Lawrence Rivers);
 - c) areas that would be rendered inaccessible to people and vehicles during times of flooding hazards, erosion hazards and/or dynamic beach hazards, unless it has been demonstrated that the site has safe access appropriate for the nature of the development and the natural hazard; and
 - d) a *floodway* regardless of whether the area of inundation contains high points of land not subject to flooding.

Comments received state, “The Amherstburg Fire department continues to maintain the capabilities to respond into the flood zone for rescue and fire fighting activities. Standard operating procedures and equipment are in place to ensure that if the 100 year flood were to happen, we would be able to respond in that area.

As such, we do not have any objections to the proposed lot and future building on this property.”

Therefore, it has been demonstrated that the site has safe access appropriate for the nature of the development of a residential building lot to contain a single detached dwelling and the natural hazard being flooding hazards.

The consent for one residential lot is consistent with Section 2.3.1 of PPS which speaks to managing and directing land use to achieve efficient development and land use patterns. The lots are within a settlement area. The severed and retained lots are/will be serviced with municipal water, municipal storm sewers and municipal sanitary sewers. The severance applications will create one new residential lots within an existing settlement area and allow for an infill development supported by the PPS.

It is the opinion of the author of this report that the requested consent would be consistent with the Provincial Policy Statement.

3. COUNTY OF ESSEX OFFICIAL PLAN:

The subject lands are located within the settlement area in the County of Essex Official Plan. Section 3.2.3 of the County Plan states that future growth and development is encouraged to locate within the settlement areas designation. Section 4.6.4 states that applications to create lots through the consent to sever process will continue to be the responsibility of local municipalities in accordance with the policies contained in local Official Plans.

The severed and retained lots are within a settlement area and can be accessed by a municipal road.

Sections 2.4 Flooding and Erosion (Natural Hazards) and 3.4 Natural Environment of the County Official Plan outline policies for lands adjacent to provincially significant wetlands and woodlands to be incorporated into the local Official Plan. These policies have been incorporated into the Town of Amherstburg's Official Plan and are reviewed in the Town OP section to follow.

4. TOWN OF AMHERSTBURG OFFICIAL PLAN:

The subject property is designated Low Density Residential in Amherstburg's Official Plan.

The requested consent conforms with relevant policies of the Official Plan specifically Section 6.1.2 being the Land Severance policies, Section 4.2.3(1) which provides for the creation of new residential lots and Section 4.2.3(3) which states that infill housing should be compatible with surrounding land uses.

The applicant has identified that the proposed use for the severed parcel will be for one residential building lot for a single detached dwelling and the existing use for the retained parcel is a single detached dwelling. The Town's Official Plan Section 4.3.1 states that: *'Areas designated as Low Density Residential shall be limited to single detached, semidetached, duplex, or converted dwelling units, home occupation uses and public uses.'* Therefore, the proposed uses on the land are in conformity with the Official Plan.

Further to Section 3.5 of the Official Plan it is noted that the property is within 50 m of a woodlot area with a natural environment underlay is identified in the Town's Official Plan to the north of the subject property. The proposed building lot and single detached dwelling will not create a negative impact on the adjacent natural environment feature as it is currently manicured grass with existing residential on the abutting lands. The addition of a dwelling on the severed parcel will not change the impact on the feature from the existing manicured lawn. It is recommended that a condition of consent be added to require temporary exclusionary fencing during the construction of a new dwelling on the severed parcel to ensure that the temporary construction process does not have any negative impact on the adjacent feature.

Further to Section 3.6 of the Official Plan it is noted that the property is within 120 m of a provincially significant wetland (PSW). There are two developed and manicured residential lots between the PSW and the proposed severed parcel. The construction of a new dwelling on the severed parcel will not create a negative impact on the PSW as there is significant development between the proposed building lot and the PSW.

A review of the consent application was conducted by the Town's natural heritage consultant and a professional opinion was provided. It was noted that due to the original lot configuration of the three lots on Plan 1103 and the recent consolidation of the parcels that as long as the lot line and future development does not encroach in the natural heritage feature and the same amount of development as exists in the subdivision is being enabled then there is not a need for further review.

In the opinion of the author of this report the proposed consent and minor variances maintain the intent of the Official Plan.

5. COMPREHENSIVE ZONING BY-LAW 1999-52:

The subject property is zoned Residential Type 1A (R1A) Zone in Bylaw 1999-52, as amended. The creation of one new lot is not in contravention of the Zoning Bylaw. Section 6(2) permits a range of residential uses in the R1A Zone.

The minimum lot area required in the R1A Zone with municipal sanitary services is 900 sq m. The minimum lot frontage in the R1A Zone is 20 m. The applicant is proposing the following lot frontages and lot areas for the severed and retained parcels.

	Lot Area		Lot Frontage	
	<i>Required</i>	<i>Proposed</i>	<i>Required</i>	<i>Proposed</i>
Severed Parcel	900 sq m	864 sq m	20 m	18.9 m
Retained Parcel	900 sq m	808.25 sq m	20 m	17.7 m

The severed and retained lots have access from Willow Beach Road. The applicant will be responsible for obtaining right-of-way permits satisfactory to the Infrastructure Services department at the time of the installation of services and the time of building permits being issued for the driveway access to the severed parcel. The total and accessory structure lot coverage and setbacks on the retained parcel have been confirmed to be in compliance with the Zoning By-law, with the exception of the rear yard setback for an existing accessory structure discussed below.

The lot frontage and lot area are in conformity with the Zoning By-law.

Section 6(3)(a) of Zoning By-law 1999-52, as amended, requires a minimum lot area of 900 sq m for a new lot with municipal sanitary services and a minimum lot frontage of 20 m for a lot created in a Residential Type 1A (R1A) Zone. Subsequent to B/22/24; the severed parcel will have a lot area of 864 sq m ± and a lot frontage of 18.9 m ±, the retained parcel will have a lot area of 808.25 sq m ± and a lot frontage of 17.7 m ±. Therefore, the amount of relief requested is 36 sq m in lot area and 1.1 m in lot frontage for the severed parcel and 91.75 sq m in lot area and 2.3 m in lot frontage for the retained parcel.

Using aerial mapping it appears the previous property owner erected a small shed on the Town parcel of land to the rear of subject property in the early 2000s.

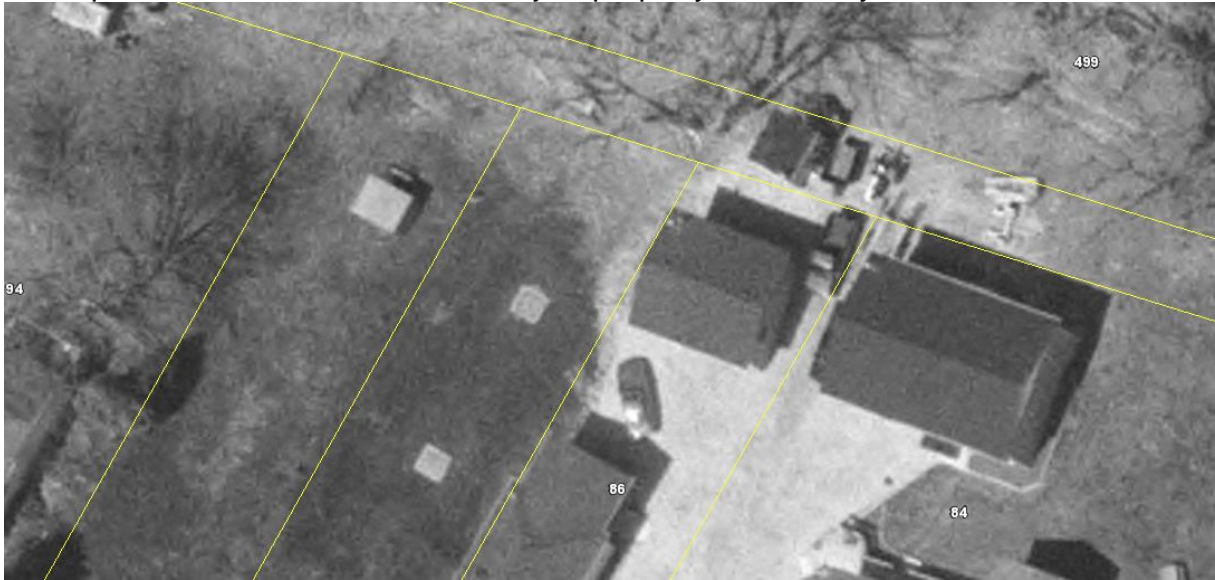


Figure 2. Image from 2004 Aerial Photography

When the current property owner took possession of the property the shed was relocated from the Town property to the rear of the subject property behind the detached garage. The existing garage was built with a building permit with the required 1 m setbacks at the time being confirmed. Permission is being requested to allow the small sheds to remain on the property in their current location subject to the reference plan being prepared as part of the severance conditions confirming they are wholly located within the severed parcel's property lines.



Figure 3. Image from 2024 Aerial Photography

In the opinion of the author of this report the proposed consent for residential lot creation, the request for relief in lot area and lot frontage for both the retained and severed parcels, and permission for the existing accessory structure to remain as existing subject to confirmation of the location of the structure being wholly within the retained parcel are in conformity with the Zoning By-Law 1999-52, as amended.

6. APPROPRIATE DEVELOPMENT

The proposed variance does not appear to change the use of the severed or retained land for residential purposes. Therefore, in my opinion the minor variance request can be considered appropriate. Any new uses, buildings or structures on the severed or retained lands would be required to comply with the Zoning By-law 1999-52, as amended.

7. 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 variances requested are small decreases to the required lot area and lot frontage of the proposed severed and retained parcels. The resulting lots will have adequate lot frontages and lot areas to accommodate the existing and a new dwelling consistent with the neighbourhood. All other zoning provisions are in compliance.

There is a woodlot and farm field between the rear property line and the closest neighbours to the rear. There will be no negative impact on neighbouring properties.

Therefore, in my opinion the requested variances may be considered minor in nature.

8. ENVIRONMENTAL CONSIDERATIONS

The Town’s natural heritage consultant has confirmed that due to the original lot configurations and the recent consolidation of the three lots within an approved subdivision further review is not needed as the application is not new development. The existing lot is manicured grass, there are no concerns that a new dwelling on the severed parcel will have a negative on the adjacent lands.

It is recommended as a condition of consent that a clause be registered on the title of the severed parcel that temporary exclusionary fencing be erected during the construction of a new dwelling.

6. AGENCY COMMENTS:

See attached.

Prior to finalizing the planning opinion on the proposed severance and minor variance a thorough review of the comments provided by ERCA was conducted. The property is located within ERCA’s limit of regulated area of Lake Erie. Section 28 of the *Conservation Authorities Act* applies to the proposed severed and retained parcels. Section 28 speaks to regulations around permits. The parcel falls within the regulated area of Lake Erie. The property owner will be required to obtain a Permit from the Essex Region Conservation Authority prior to any construction or site alteration or other activities affected by Section 28 of the *Conservation Authorities Act*.

Section 28 of the *Conservation Authorities Act* speaks to ‘development activities’ within a regulated area. Ontario Regulation 41/24 defines “development activity” in relation to Section 28 of the Act and this regulation to mean;

- (a) *the construction, reconstruction, erection or placing of a building or structure of any kind,*
- (b) *any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure,*
- (c) *site grading, or*
- (d) *the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere.*

A Conservation Authority’s authority under Section 28 of the Conservation Act and through Ontario Regulation 41/24 is to empower ERCA to prevent or restrict development activities, as defined above, in regulated areas where the control of flooding may be affected by the development.

Under Ontario Regulation 687/21: Mandatory Programs and Services, conservation authorities in Ontario were required to create a Transition Plan that outlined the steps to develop an inventory of programs and services and to enter into agreements with participating municipalities to fund certain municipal programs and services. The transition period started on the date the regulation was released and ended on January 1, 2024.

It is warranted to reiterate the comments received from the Town Fire department that state, “The Amherstburg Fire department continues to maintain the capabilities to respond into the flood zone for rescue and fire fighting activities. Standard operating procedures and equipment are in place to ensure that if the 100 year flood were to happen, we would be able to respond in that area.

As such, we do not have any objections to the proposed lot and future building on this property.” Safe access has been confirmed.

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:

Based on the foregoing and subject to the Committee's consideration of written and oral submissions at the public meeting it is recommended that application **B/22/24 be approved, subject to the following conditions:**

1. That a Reference Plan of the subject property satisfactory to the municipality be deposited in the Registry Office; a copy to be provided to the municipality.
2. The applicant to submit to the municipality the deed acceptable for registration in order that consent may be attached to the original and a copy be provided to the municipality.
3. That all property taxes be paid in full.
4. That a parkland fee be paid to the Town of Amherstburg prior to the stamping of the deeds in an amount of \$1070 for the severed lot.
5. The Applicant shall confirm that each property (severed and retained) have separate sanitary, storm and water connections. If additional services are required to be installed to satisfy this condition, a permit from the Public Works Department must be submitted for review and approval (per property). Installation and/or confirmation of separate sanitary, storm and water connections is required prior to the stamping of the deeds.
6. That the Applicant shall provide to the municipality Private Drain Connection (PDC) sheets once installation of new services is completed.
7. All downspouts shall be disconnected and splash to the ground.
8. The Applicant shall register on the title of the severed parcel the following clause; "That temporary Exclusionary Fencing be erected during the construction of a new dwelling."
9. That the Applicant shall submit a lot grading plan for the severed lot to the satisfaction of the municipality.
10. The applicant/owners are required to enter into a reapportionment of the drainage assessment for the subject lands in accordance with Section 65 of the Ontario Drainage Act, R.S.O. 1990 as amended and provide the Town of Amherstburg, a signed agreement and that any associated cost of same be borne solely by the applicant. The reapportionment shall be for any affected Municipal Drains as required and are to be assessed against the affected lands in accordance with any past, current or future drainage bylaws, until such time as otherwise determined under the provisions of the Drainage Act. The severance shall not be granted until a Council resolution is passed to execute the reapportionment agreement.
11. This consent will be deemed to be refused in accordance with the Planning Act if the above noted conditions are not met within two years from the date of this notice.

NOTE: All conditions are subject to the approval of the Town of the Amherstburg, but at no cost to the municipality.

That subject to Committee consideration of written and oral comments received at the meeting, it is recommended that Application **A/38/24 be approved** to grant relief of 36 sq m in lot area and 1.1 m in lot frontage for the severed parcel and 91.75 sq m in lot area and 2.3 m in lot frontage for the retained parcel subsequent to approval of application B/22/24 and that permission is granted for the existing accessory structures to remain as existing on the date of the minor variance decision subject to confirmation of the location of the structure being wholly within the retained parcel.

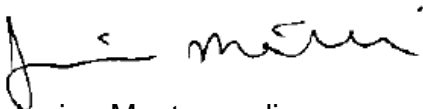
9. CONCLUSION:

In the opinion of the author of this report the request for the creation of one new residential building lot is in conformity with Section 6.1.2 of Amherstburg's Official Plan and is consistent with the Provincial Planning Statement.

In the opinion of the author of this report;

- 1) The requested variances conform with the intent of the relevant Official Plan policies.
- 2) The proposed variances maintain the intent of Comprehensive Zoning By-law 1999-52, 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 are minor in nature.
- 5) The proposed variances would not have a negative impact on the environment.

Respectfully submitted,



Janine Mastronardi
Secretary-Treasurer Committee of Adjustment

Report Approval Details

Document Title:	B-22-24 and A-38-24, 86 Willow Beach Road, Gerald Goodchild.docx
Attachments:	- B-22-24 and A-38-24- Notice Circulation- 86 Willow Beach Road- RM.pdf
Final Approval Date:	Nov 1, 2024

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

Chris Aspila