



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: January 29, 2025
Author's Phone: 519 736-5408 ext. 2134	Date to Committee: February 5, 2025
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To: Chair and Members of the Committee of Adjustment

Subject: A/29/24, 19 Levergood Lane, Belal El-Kadri & Mohammed El-Kadri

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/29/24 **BE APPROVED**.

2. PROPOSAL:

The applicants are requesting relief from Zoning By-law 1999-52, as amended, Section 6(3)(d) which requires a minimum interior side yard setback of 1.5 m (4.92 ft) in a Residential Type 1A (R1A) Zone.

The applicants have constructed a 56" x 116" platform which is proposed to have stairs added going down to the front of the property to be used as an exterior access to the attic of the existing dwelling. The southwest corner of the platform encroaches 0.82 m (2.7 ft) into the required interior side yard resulting in a 0.68 (2.22 ft) setback. Therefore, the amount of relief requested is 0.82 m (2.7 ft) in interior side yard setback for the platform accessing the attic.

The subject property is designated Low Density Residential in the Town's Official Plan and zoned Residential Type 1A (R1A) Zone in the Town's Zoning By-law.

3. BACKGROUND:

This application was brought before the Committee of Adjustment on August 7, 2024. At the request of the Essex Region Conservation Authority (ERCA) the Committee deferred the application until such time that ERCA was satisfied with understating the purpose of the application. A clearance from ERCA was issued on November 19, 2024. It is now appropriate to proceed with the minor variance application.

4. PLANNING INFORMATION:

Official Plan Designation: Low Density Residential

By-law No. 1999-52: Residential Type 1A (R1A) Zone

Existing Use: residential

Proposed Use: residential

Neighboring Uses: North: residential
South: residential
East: residential
West: residential

TECHNICAL INFORMATION

Property Size: 677.4 sq m (7291 sq ft)

Existing structures: single detached dwelling

Proposed Minimum Interior Yard Setback: 0.68 m (2.22 ft)

Required Minimum Interior Side Yard Setback: 1.5 m (4.92 ft)

Relief requested: 0.82 m (2.7 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 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 appropriate location of growth and development;

The owner is permitted to erect a platform and stairs on the existing single detached dwelling on a municipally serviced property in an existing residential development. The minor variance is required to allow for a reduced interior side yard setback to permit the addition of the platform.

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 a platform and staircase which will be attached to a single detached dwelling. 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.

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

3. ZONING BY-LAW

The subject property is zoned Residential Type 1A (R1A) Zone in Bylaw 1999-52, as amended. The R1A Zone permits single detached dwellings, accessory structures.

Section 6(2)(d) requires a minimum interior side yard setback of 1.5 m (4.92 ft) in a Residential Type 1A (R1A) Zone. The applicants have constructed a 56” x 116” platform which is proposed to have stairs added going down to the front of the property to be used as an exterior access to the attic of the existing dwelling. The southwest corner of the platform encroaches 0.82 m (2.7 ft) into the required interior side yard resulting in a 0.68

(2.22 ft) setback. Therefore, the amount of relief requested is 0.82 m (2.7 ft) in interior side yard setback for the platform accessing the attic. The proposed structure complies with all other provisions of the Zoning By-law including lot coverage.

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.

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 platform does not change the character of the neighbourhood and is required by the property owners to gain access to the attic space above the house. All of the remaining R1A zone provisions and General Provisions are in compliance. The proposed residential use of the property is consistent with the Provincial Policy Statement and is in conformity with the Official Plan and maintains the intent of the Zoning by-law.

An ERCA clearance was issued on November 19, 2024 for the proposed work. There appears to be no environmental concerns.

6. AGENCY COMMENTS:

N/A

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:

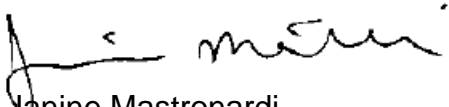
That subject to Committee consideration of written and oral comments received at the meeting, it is recommended that Application A/29/24 be approved to grant relief of 0.82 m (2.7 ft) in interior side yard setback for a 56" x 116" platform which is proposed to have stairs added going down to the front of the property to be used as an exterior access to the attic of the existing dwelling.

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 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-29-24, 19 Levergood Lane, Balal and Mohammed El-Kadri- Feb. 5, 2025.docx
Attachments:	- A-29-24- Notice- 19 Levergood Lane- FEB. MTG-RM.pdf - A-29-24 - Application_Redacted.-RM.pdf
Final Approval Date:	Jan 30, 2025

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

Chris Aspila