



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: Sarah French	Report Date: January 29, 2025
Author's Phone: 519 736-5408 ext. 2145	Date to Committee: February 5, 2025
Author's E-mail: sfrench@amherstburg.ca	Resolution #:

To: Chair and Members of the Committee of Adjustment

Subject: A-01-25, 10 Shaw Drive, Noel and Juliette Herdman c/o Seaton Sunrooms

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/01/25 **BE APPROVED** subject to the recommended conditions.

2. **PROPOSAL:**

The applicant is requesting relief from Zoning By-law 1999-52, as amended, Section 9(4)(b) which requires a 9 m (29.53 ft) rear yard setback for semi-detached units. A minor variance (A/15/14) was approved on July 29, 2014 to permit a 7.5 m rear yard setback and encroachment of a deck up to a minimum setback of 4.1 m from the rear property line.

The applicant is proposing the installation of a sunroom on top of the deck and renovations to the existing deck. The proposed sunroom will be 5.87 m from the rear property line and the proposed deck will be 4.9 m from the rear property line. Therefore, relief from the 7.5 m rear yard setback (approved by minor variance A/15/14) of 1.63 m is required to approve a rear yard setback of 5.87 m for the sunroom. The proposed setback of the deck was authorized by minor variance A/15/14.

The subject property is designated Low Density Residential in the Town's Official Plan and zoned Special Provision Third Density (R3-2) in the Town's Zoning By-law.

3. **BACKGROUND:**

A minor variance was approved for the entire Big Creek subdivision in 2014 that provided the following relief:

- 55% lot coverage for the semi-detached structures with attached decks;
- 7.5 m rear yards for all units within the subdivision; and,
- Encroachment of the decks into the rear yard up to a minimum rear yard setback of 4.1 m.

The A/15/14 decision is attached to this report in the appendices.

4. **PLANNING INFORMATION:**

Official Plan Designation:	Low Density Residential
By-law No. 1999-52:	Special Provision Residential Third Density (R3-2) Zone
Existing Use:	Residential (semi-detached)
Proposed Use:	Residential (semi-detached)
Neighboring Uses:	North: residential and agricultural South: residential and agricultural East: residential West: residential

TECHNICAL INFORMATION

Property Size:	283 sq. m. (3046.2 sq. ft.)
Existing structures:	semi-detached dwelling with attached garage and deck

Proposed Rear Yard Setback:	5.87 m (19.26 ft)
Permitted Rear Yard Setback:	7.5 m (24.6 ft)
Relief requested:	1.63 m (5.35 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 property owner is requesting a sunroom to be built on the rear yard deck, attached to the semi-detached dwelling. The minor variance that was approved in 2014 allowed an encroachment of a deck into the rear yard up to a minimum setback of 4.1 m. A deck is defined as “DECK” means a platform made of wood, concrete or other similar material, that has a height greater than .6096 metres above grade, projecting from a building or freestanding, open to the sky, and intended for the purpose of outdoor dining, lounging, and other similar accessory residential uses. A sunroom does not meet the definition of a deck since it is a covered structure with walls. Therefore, the variance would allow the sunroom to be situated 5.87 m from the rear property line.

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 an addition to the semi-detached structure in the form of a sunroom off the rear of the dwelling. The proposed sunroom is 13.4 sq. m. (144.2 sq. ft.) in size and 2.29 m (7.5 ft) in height, built on top of the existing deck. The existing deck will be renovated through the building permit to meet the Building Code and have an appropriate base to support the sunroom. It will extend from the existing roof of the semi-detached structure and will not be taller than the dwelling. The structure and uses 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 Special Provision Residential Third Density (R3-2) Zone in By-law 1999-52, as amended. The R3-2 Zone permits the following uses:

- (i) single detached dwelling;
- (ii) semi-detached dwelling;
- (iii) duplex dwelling;
- (iv) lodging house;
- (v) bed and breakfast establishment;
- (vi) converted dwelling;
- (vii) existing places of worship;
- (viii) home occupation;
- (ix) accessory uses;
- (x) public use.

Section 9(4)(b) requires a 9 m (29.53 ft) rear yard setback for semi-detached units. A minor variance (A/15/14) was approved on July 29, 2014 to permit a 7.5 m rear yard setback and encroachment of a deck up to a minimum setback of 4.1 m from the rear property line.

The applicant is proposing the construction of a 13.4 sq. m. (144.2 sq. ft.) sunroom attached to the rear of the house, built on the existing deck and deck renovations. The proposed rear yard setback is 5.87 m for the sunroom and 4.9 m for the deck. The proposed setback for the deck complies with the minor variance that was approved in 2014. The minor variance only allowed the encroachment of a deck into the rear yard setback of 7.5 m (the 7.5 m rear yard setback was also approved through variance A/15/14). The proposed sunroom does not meet the definition of a deck and therefore requires the variance to reduce the required rear yard setback. It should be noted that application A/15/14 was for the entire Big Creek subdivision and not site specific for 10 Shaw Drive. The application for variance for the rear yard setback is the first site specific variance for 10 Shaw Drive.

The proposed sunroom and deck renovation will result in a lot coverage of 48.8%. The A/15/14 minor variance permitted up to 55% lot coverage for the semi-detached units and decks. Therefore, the proposed sunroom and deck complies with the lot coverage provisions.

The proposed sunroom will be attached to the rear of the house and will not be taller than the dwelling. The proposed sunroom will extend an additional 3.66 m towards the rear of the property when compared to the existing rear wall of the dwelling unit. Therefore, the amount of relief is 1.63 m in rear yard setback resulting in a rear yard setback of 5.87 m for the sunroom where 7.5 m is required.

The proposed structure complies with all other provisions of the Zoning By-law including height, interior side yard setbacks and total lot coverage.

The height of the sunroom on top of the deck is proposed to be 3.5 m (11.54 ft) according to the sketch provided by the applicant. The existing zoning on the property allows accessory structures within 1.2 m of the rear property line, up to a height of 5.5 m (18 ft) to peak, should lot coverage allow for the addition of an accessory structure. Therefore, it is the opinion of the author of this report that the proposed sunroom will not provide a larger visual barrier to the neighbouring properties than an accessory structure, which would be permitted as-of-right, would provide.

It is the opinion of the author of this report that 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. ERCA approval has been provided for the proposed addition.

The subject lot backs onto the side yard of an existing lot located on County Road 20. The subject property directly backs onto the neighbouring lot's detached accessory structure and therefore will not impact the privacy of the existing house, which is set closer to County Road 20.

The subject lot is bordered to the north and south by semi-detached dwellings. The deck is already existing on the property and the addition of the sunroom should have minimal additional impacts on the privacy of the rear yards of the neighbouring properties, since instead of an open deck, it will be an enclosed space. The deck is not proposed to extend any further to the rear than the deck that already exists on the subject lot.

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 addition does not change the character of the neighbourhood. It appears that many neighbours have pergolas or covered structures on the rear yard decks. The sunroom will serve the same purpose as the existing deck, with the additional comfort for the residents of enclosed walls and a roof for shade.

All of the remaining R3-2 zone provisions and General Provisions are in compliance. The proposed residential use of the property is consistent with the Provincial Policy Statement and in conformity with the Official Plan and maintains the intent of the Zoning By-law.

There appears to be no environmental concerns. ERCA issued a permit on November 19, 2024 for the proposed sunroom.

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/01/25 be approved subject to the following conditions;

1. That the design of the accessory structure be in substantial conformity with the plans submitted as part of application A/01/25.
2. Proper grading be provided at project completion to ensure drainage is maintained on own property.

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,



Sarah French
Secretary-Treasurer

Report Approval Details

Document Title:	A-01-25, 10 Shaw Drive, Noel and Juliette Herdman co Seaton Sunrooms.docx
Attachments:	- A-01-25 - Application 10 Shaw Dr_Redacted-RM.pdf - A-01-25- Notice-10 Shaw-RM.pdf - A-01-25 - Aerial Map-RM.pdf - A-01-25 Sketch - 10 SHAW DRIVE-AMHERSTBURG-RM.pdf
Final Approval Date:	Jan 30, 2025

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

Chris Aspila