



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: February 5, 2025
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To: Chair and Members of the Committee of Adjustment

Subject: B/01/25, 131-133 Park Street, Robert Godbout

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

2. PROPOSAL:

The applicant is proposing to sever a parcel of land being 10.76 m ± frontage by 30.5 m ± depth with an area of 327.8 sq m ± to create a new residential semi-detached building lot. The remaining parcel being 10.76 m ± frontage by 30.5 m depth with a total area of 327.8 sq m ± will contain a new residential semi-detached dwelling unit.

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:

Consent file B/03/23 was approved by the Committee on February 1, 2023 for a lot addition to merge with the subject parcel. Conditions of consent were finalized and deeds stamped on July 4, 2024. The subject parcel now includes Parts 3, 4 and 5 on 12R-29719.

Minor Variance file A/25/23 was approved by the Committee on September 6, 2023 granting 4.3% relief in total lot coverage, permitting a 44.3% lot coverage on the subject

property subject to five conditions. The proposed new semi-detached dwellings are being designed in compliance with this minor variance decision.

The subject property is also within the proposed Heritage Conservation District. On July 8, 2024 Council adopted By-law 2024-050, a by-law to designate a Heritage Conservation District Study Area within a defined area in the Town of Amherstburg in accordance with the Ontario Heritage Act, section 40(1). A detailed explanation is provided below in the Planning Analysis section of this report.

4. PLANNING INFORMATION:

Official Plan designation: Heritage Residential

By-law No. 1999-52: Residential Heritage (RH) Zone

Existing Use: Residential

Neighbouring Uses: Residential and Commercial

Access: Park Street

5. PLANNING ANALYSIS:

In the review of the subject application, a number of points have been reviewed:
The purposes of the Planning Act are;

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 is within a settlement area and has existing services and accesses. The conditions of consent are proposed to ensure orderly development of the severed and retained 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 residential development on an existing right-of-way with municipal water and sanitary sewers. A plan of subdivision is not necessary.

2. PROVINCIAL PLANNING STATEMENT:

The Planning Act R.S.O 1990, C.P.13, requires that the Council of a local Municipality and Committees of a local Municipality shall have regard to matters of Provincial interest in carrying out applications such as a severance application. Items of Provincial interest are outlined in the Provincial Planning Statement (PPS) issued by the Ministry of Municipal Affairs and Housing.

“Legislative Authority

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.

Comments, submissions or advice that affect a planning matter that are provided by the council of a municipality, a local board, a planning board, a minister or ministry, board, commission or agency of the government shall be consistent with the Provincial Planning Statement.”

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.

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

In Chapter 1, the Introduction summarizes the vision for the province and includes the following statement, “Ontario’s land use planning framework, and the decisions that are made, shape how our communities grow and prosper. Prioritizing compact and *transit-supportive* design, where locally appropriate, and optimizing investments in *infrastructure* and *public service facilities* will support convenient access to housing, quality employment, services and recreation for all Ontarians.”

Chapter 2 discusses housing and is entitled, Building Homes, Sustaining Strong and Competitive Communities.

2.2 Housing

1. Planning authorities shall provide for an appropriate range and mix of *housing options* and densities to meet projected needs of current and future residents of the *regional market area* by:

- a) establishing and implementing minimum targets for the provision of housing that is *affordable to low and moderate income households*, and coordinating land use planning and planning for housing with Service Managers to address the full range of *housing options* including *affordable housing needs*;
- b) permitting and facilitating:
 1. all *housing options* required to meet the social, health, economic and wellbeing requirements of current and future residents, including *additional needs housing* and needs arising from demographic changes and employment opportunities; and
 2. all types of residential *intensification*, including the *development and redevelopment* of underutilized commercial and institutional sites (e.g., shopping malls and plazas) for residential use, development and introduction of new *housing options* within previously developed areas, and *redevelopment*, which results in a net increase in residential units in accordance with policy 2.3.1.3;
- c) promoting densities for new housing which efficiently use land, resources, *infrastructure* and *public service facilities*, and support the use of *active transportation*; and
- d) requiring *transit-supportive* development and prioritizing *intensification*, including potential air rights development, in proximity to transit, including corridors and stations.

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*.

2.4 Strategic Growth Areas

2.4.1 General Policies for Strategic Growth Areas

1. Planning authorities are encouraged to identify and focus growth and development in *strategic growth areas*.

2. To support the achievement of *complete communities*, a range and mix of *housing options*, *intensification* and more mixed-use development, *strategic growth areas* should be planned:

- a) to accommodate significant population and employment growth;
- b) as focal areas for education, commercial, recreational, and cultural uses;
- c) to accommodate and support the transit network and provide connection points for inter-and intra-regional transit; and
- d) to support *affordable*, accessible, and equitable housing.

3. Planning authorities should:

- a) prioritize planning and investment for *infrastructure* and *public service facilities* in *strategic growth areas*;
- b) identify the appropriate type and scale of development in *strategic growth areas* and the transition of built form to adjacent areas;
- c) permit *development* and *intensification* in *strategic growth areas* to support the achievement of *complete communities* and a *compact built form*;
- d) consider a student housing strategy when planning for *strategic growth areas*; and
- e) support *redevelopment* of commercially-designated retail lands (e.g., underutilized shopping malls and plazas), to support mixed-use residential.

4.6 Cultural Heritage and Archaeology

1. *Protected heritage property*, which may contain *built heritage resources* or *cultural heritage landscapes*, shall be *conserved*.
2. Planning authorities shall not permit *development* and *site alteration* on lands containing *archaeological resources* or *areas of archaeological potential* unless the *significant archaeological resources* have been *conserved*.

3. Planning authorities shall not permit *development and site alteration on adjacent lands to protected heritage property* unless the *heritage attributes of the protected heritage property* will be *conserved*.
4. Planning authorities are encouraged to develop and implement:
 - a) archaeological management plans for conserving *archaeological resources*; and
 - b) proactive strategies for conserving *significant built heritage resources* and *cultural heritage landscapes*.
5. Planning authorities shall engage early with Indigenous communities and ensure their interests are considered when identifying, protecting and managing *archaeological resources, built heritage resources* and *cultural heritage landscapes*.

The proposed severed and retained 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 application will create one new residential lot within an existing settlement area and allows for infill development supported by the PPS.

Recommended conditions based on the Heritage Conservation Study Area By-law are provided to ensure sympathetic building design of the proposed semi-detached dwelling units are required to provided consistency with the PPS.

In the opinion of the author of this report the requested consent is consistent with the Provincial Planning 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.

4. TOWN OF AMHERSTBURG OFFICIAL PLAN:

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

The requested consent would appear to conform with relevant policies of the Official Plan specifically Section 6.1.2 being the Land Severance policies and Section 4.2.5 which states:

“Adjacent to the Central Business District of the old Town is a residential area where many of the homes date back to 1850. The small frame homes on narrow streets are a visible reminder of Canada's beginnings. The Heritage Residential area lies within a portion of the Town of Amherstburg that has been studied as a Heritage Conservation District.

The uses permitted within the Heritage Residential area shall include single detached, semi-detached, duplex, and converted dwellings as well as rooming and boarding houses, bed and breakfast establishments, existing churches, and public uses.

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.

The height of any new development must also be sensitive to adjacent properties.

Several of the structures within the Heritage Residential area have been designated as “Heritage” buildings under the *Ontario Heritage Act*. Every effort should be made by both the owner and the Corporation to ensure the continued existence of that structure in its historically significant form.”

The applicant has identified that the proposed use for the severed and retained parcels is for new building lots is to contain a semi-detached dwelling unit on each parcel. The Town’s Official Plan Section 4.3.5 lists semi-detached dwellings as a permitted use in this designation.

As part of the effort to protect the cultural heritage assets of the Town while the Heritage Conservation District Study is being completed a study area by-law has been adopted by Council with implications for this proposal further explained below.

Therefore, the proposed use and lot creation on the subject lands are in conformity with the Official Plan.

5. HERITAGE CONSERVATION DISTRICT STUDY AREA BY-LAW

The subject property is also within the proposed Heritage Conservation District. On July 8, 2024 Council adopted By-law 2024-050, a by-law to designate a Heritage Conservation District Study Area within a defined area in the Town of Amherstburg in accordance with the Ontario Heritage Act, section 40(1).

The study area by-law stabilizes this area of the Town with regards to the potential removal or demolition of built heritage assets until such time as an HCD Plan is adopted by Town Council or the lapsing of one year from the date of the adoption of the by-law.

The HCD Study Area By-law prohibits the erection, demolition, or removal of buildings or structures located within the HCD Study Area. The intent of an HCD is to protect existing areas that have cultural heritage value and to guide future development so that they do not have a negative impact on the identified character of the area.

That being said, it is important that the Town balance the need to protect the area being studied while still providing a way for developments to move forward. The by-law includes some exemptions in order to achieve these goals.

One exemption includes the erection, demolition or removal of buildings or structures within the heritage conservations district study area that has been endorsed by the Municipal Heritage Committee. This exemption would allow for proposed developments

to work with the Heritage Committee to ensure that the proposed development is sympathetic to the character of the study area prior to the completion of the HCD Plan.

Conditions have been recommended regarding Heritage Committee endorsement of the design of the proposed semi-detached dwelling, with the endorsement being required prior to the issuance of a building permit.

6. COMPREHENSIVE ZONING BY-LAW 1999-52:

The subject property is zoned Residential Heritage (RH) Zone in Bylaw 1999-52, as amended. The creation of a new lot is not in contravention of the Zoning Bylaw. Section 12(2) permits a range of uses in the RH Zone including single detached, semi-detached and duplex dwellings.

	Lot Area		Lot Frontage	
	<i>Required</i>	<i>Proposed</i>	<i>Required</i>	<i>Proposed</i>
Severed Parcel	No Minimum	327.8 sq m	No Minimum	10.76 m
Retained Parcel	No Minimum	327.8 sq m	No Minimum	10.76 m

The severed lots will have access from Park Street. The use, lot area, lot frontage and setbacks for the proposed semi-detached units on the severed and retained parcels are in conformity with the Zoning By-law. The proposed lot coverage is consistent with Minor Variance Decision A/25/23.

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:

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/01/25 be approved** each subject to the following conditions:

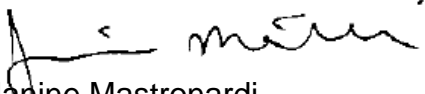
1. That a Reference Plan of the subject property, which indicates the common wall of the semi-detached dwelling, satisfactory to the municipality be deposited in the Registry Office; a copy to be provided to the municipality.
2. The applicant to submit to the municipality the deed acceptable for registration in order that consent may be attached.
3. That all property taxes be paid in full.
4. That the Applicant obtain Heritage Committee endorsement of the proposed semi-detached dwelling building design prior to the issuance of a building permit.
5. That the applicant must install a curb cut/driveway access to the severed/retained parcels at the applicant's expense, to the satisfaction of the municipality.
6. That the applicant be required to obtain a Right-of-Way Permit from Infrastructure Services according to Town policy for any work required within the limits of the Town right-of-way. All permitting costs will be borne entirely by the applicant.
7. That the applicant installs separate water services, sanitary and storm sewer connections to the severed and retained parcels in accordance with and under the supervision of the municipality at the applicant's expense, prior to the stamping of deeds.
8. Private Drain Connection (PDC) sheets will be required to be submitted once installation of new services is completed.
9. One (1) tree per newly created lot shall be planted within the municipal right-of-way. Coordination with the undersigned is required to confirm species and caliper to be planted. Cash in lieu may also be provided to satisfy this requirement in the amount of \$500.00 per lot created.
10. That the applicant be required to undertake lot grading plans for the severed and retained parcels to the satisfaction of the municipality.
11. That the applicant install separate hydro services to the severed and retained lots to the satisfaction of Essex Powerlines Corporation.
12. 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.

9. CONCLUSION:

In the opinion of the author of this report the request for the creation of a 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.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jantine Mastronardi', written in a cursive style.

Jantine Mastronardi
Secretary-Treasurer Committee of Adjustment

Report Approval Details

Document Title:	B-01-25, 131-133 Park Street, Robert Godbout.docx
Attachments:	- B-01-25- Notice- 131-133 Park Street-RM.pdf - B-01-25 - 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