



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/05/25, 243 Fort Street, Peter Iacovone

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/05/25 be approved subject to the recommended conditions.

2. **PROPOSAL:**

The applicant is proposing to sever an irregular shaped parcel of land being 5.12m ± frontage by 77.18 m ± depth with an area of 121.5 sq m ± to merge with the vacant residential building lot at 249 Fort Street.

The retained parcel being 17.38 m ± of frontage by an irregular depth with an area of 1280 sq m ± contains a single detached dwelling and one accessory structures.

The subject property is designated Low Density Residential in the Town's Official Plan and zoned Residential Second Density (R2) Zone in the Town's Zoning By-law, 1999-52, as amended.

3. **BACKGROUND:**

In February 2024, the Committee of Adjustment approved B/02/24 the creation of a new residential building lot to be severed from 255 Fort Street. Conditions were satisfied and deeds have been stamped.

4. PLANNING INFORMATION:

Official Plan designation: Low Density Residential
By-law No. 1999-52: Residential Second Density (R2) Zone
Existing Use: Residential
Neighbouring Uses: Residential and Institutional
Access: Fort Street

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 a lot addition is within a settlement area with existing services and accesses. The conditions of consent are proposed to ensure orderly development of the consolidated parcel.

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 a lot addition to merge with an existing residential building lot within an existing residential development on an existing right-of-way with municipal water and storm 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 consent for a lot addition is a minor lot boundary adjustment to enlarge the residential property at 249 Fort Street. The property is within a settlement boundary with full municipal services and access to a municipal right-of-way.

In the opinion of the author of this report the requested consent is 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.

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 residential lot additions 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 a lot addition to merge with the residential building lot to the east, 249 Fort Street, which is proposed to contain a single detached dwelling and the existing use for the retained parcel of residential containing a single detached dwelling and accessory structure will continue. 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 lot addition and the proposed uses on the lands are in conformity with the Official Plan.

5. COMPREHENSIVE ZONING BY-LAW 1999-52:

The subject property is proposed to be zoned Residential Second Density (R2) Zone in Bylaw 1999-52, as amended. The creation of a new lot is not in contravention of the Zoning Bylaw. Section 8(2) permits a range of residential use in the R2 Zone.

The minimum lot area required in the R2 Zone is 460 sq m. The minimum lot frontage in the R2 Zone is 12 m. The applicant is proposing the following lot frontages and lot areas for the severed (consolidated) and retained parcels.

	Lot Area		Lot Frontage	
	<i>Required</i>	<i>Proposed</i>	<i>Required</i>	<i>Proposed</i>
Severed (Consolidated) Parcel	460 sq m	1266.73 sq m	12 m	20.73 m
Retained Parcel	460 sq m	1280 sq m	12 m	17.38 m

The severed once consolidated with 249 Fort Street lot and retained lot will have access from Fort Street. The applicant will be responsible for obtaining right-of-way permits satisfactory to the Infrastructure Services department. The lot coverage and setbacks on the retained parcel is all in compliance with the Zoning By-law.

The lot frontages and lot areas are in conformity with the Zoning By-law.

In the opinion of the author of this report the proposed consent for residential lot creation is in conformity with the Zoning By-Law 1999-53, as amended.

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/05/25 be approved each 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. The Applicant shall confirm that all municipal servicing for the severed and retained parcels remain within the frontage of the parcel the connection is servicing.
5. That the applicant submit a revised lot grading plan for the consolidated parcel at 249 Fort Street if deemed appropriate by the Chief Building Official upon review of the final house design and lot layout, to the satisfaction of the municipality,
6. 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(6) of Amherstburg's Official Plan and is consistent with the Provincial Policy Statement.

Respectfully submitted,



Janine Mastronardi
Secretary Treasurer Committee of Adjustment

Report Approval Details

Document Title:	B-05-25, 243 Fort Street, Peter Iacovone.docx
Attachments:	<ul style="list-style-type: none">- B-05-25- Notice- 243 Fort Street-RM.pdf- B-05-25 - Application_Redacted-RM.pdf- B-05-25- Site Photo-RM.pdf- Summary of Correspondence Received on B-05-25-RM.pdf- B-05-25 PowerPoint-RM.pdf
Final Approval Date:	Jan 30, 2025

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

Chris Aspila