



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: March 27, 2025
Author's Phone: 519 736-5408 ext. 2134	Date to Committee: April 2, 2025
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To: Chair and Members of the Committee of Adjustment

Subject: A/06/25, 1359 Front Road South, Sean Cota

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/06/25 **BE APPROVED** subject to the recommended conditions.

2. PROPOSAL:

The applicant is requesting relief from Zoning By-law 1999-52, as amended, Section 3(1)(c) which permits a maximum height of 5.5 m in for an accessory structure in a Residential Zone.

The applicant is proposing to remove the existing 480 sq ft accessory structure (detached garage) and is proposing the construction of a 32.75 ft x 43 ft, 1400 sq ft, accessory structure to contain personal vehicle storage on the first floor and a future additional residential unit on the second floor with a height of 7.42 m (24.4 ft) to the peak of the roof.

Through consultation with the Building department and to provide for potential construction errors resulting in the finished structure exceeding what is proposed the relief requested for the height is proposed to be rounded up to 7.62 m (25 ft).

The proposed setbacks, size, lot coverage and distance between the primary and additional dwellings all comply with the applicable zoning provisions.

The existing single detached dwelling has a footprint of approximately 1480 sq ft and an approximate height of 7.92 m (26 ft) to the peak of the roof from the highest grade.

Therefore, the amount of relief requested is 2.12 m (7 ft) in accessory structure height.

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

3. BACKGROUND:

N/A

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: residential

TECHNICAL INFORMATION

Property Size: 0.843 acres

Existing structures: single detached dwelling (to remain) and two accessory structure (one shed to remain and one garage to be demolished)

Proposed Accessory Structure Height: 7.62 m

Permitted Accessory Structure Height: 5.5 m

Relief requested: 2.12 m

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 orderly development of safe and healthy communities;

The owner is permitted to erect an accessory structure on a municipally serviced property in an existing residential development which already contains a single detached dwelling. The minor variance is required to allow for increased height.

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 an accessory structure which will be accessory to a single detached dwelling which will contain personal storage on the first floor and an additional residential unit on the second floor. 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 and accessory structures.

Section 3(1)(c) permits a maximum height of 5.5 m for an accessory structure in a Residential Zone. The applicant is proposing to remove the existing 480 sq ft accessory structure (detached garage) and is proposing the construction of a 32.75 ft x 43 ft, 1400 sq ft, accessory structure to contain personal vehicle storage on the first floor and a future

additional residential unit on the second floor with a height of 7.42 m (24.4 ft) to the peak of the roof.

Through consultation with the Building department and to provide for potential construction errors resulting in the finished structure exceeding what is proposed the relief requested for the height is proposed to be rounded up to 7.62 m (25 ft).

The existing single detached dwelling has a footprint of approximately 1480 sq ft and an approximate height of 7.92 m (26 ft) to the peak of the roof from the highest grade.

The proposed setbacks, size, lot coverage and distance between the primary and additional dwellings all comply with the applicable zoning provisions.

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. The height of the proposed accessory structure is consistent with the dwellings and accessory structures in the neighbourhood.

The height relief requested is 2.12 m while keeping the height of the accessory structure lower than the height of the house. The proposed structure has been designed to compliment the primary dwelling. It is set back and behind the primary dwelling as well.

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 accessory structure does not change the character of the neighbourhood and the additional height is required by the property owner to allow for an additional residential unit on the second floor. Lot coverage, setback between primary and secondary dwelling and all the remaining R1A zone provisions and General Provisions are in compliance.

The proposed residential use of the property is consistent with the Provincial Planning Statement, is in conformity with the Official Plan and maintains the intent of the Zoning by-law.

The Essex Region Conservation Authority has no objections to the application for minor variance. The applicant is required to obtain an approval from ERCA prior to any construction or site alteration or other activities affected by Section 28 of the *Conservation Authorities Act*. There appears to be no environmental concerns.

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/06/25 be approved to grant relief of 2.12 m in accessory structure height to allow for a 32.75 ft x 43 ft, 1400 sq ft, accessory structure to contain personal vehicle storage on the first floor and a future additional residential unit on the second floor with a maximum height of 7.62 m (25 ft) to the peak of the roof subject to the recommended conditions:

1. That the design of the accessory structure be in substantial conformity with the plans submitted as part of application A/06/25.
2. That a grade design be approved and implemented to the satisfaction of the municipality

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 intents 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,

A handwritten signature in black ink, appearing to read "Janine Mastronardi". The signature is fluid and cursive, with a prominent initial "J" and a long horizontal stroke.

Janine Mastronardi
Secretary-Treasurer

Report Approval Details

Document Title:	A-06-25, 1359 Front Road South, Sean Cota.docx
Attachments:	<ul style="list-style-type: none">- Appendix A- A-06-25- Notice- 1359 Front Rd S-RM.pdf- Appendix B- A-06-25 Application_Redacted-RM.pdf- Appendix C- A-06-25 Aerial Map-RM.pdf- Appendix D- A-06-25- Site Photos.-RM.pdf- Appendix E- Summary of Correspondence Received on A-06-25-RM.pdf- Appendix F- A-06-25 PowerPoint-RM.pdf
Final Approval Date:	Mar 28, 2025

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

Chris Aspila