



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/10/25, 126 Tilford Lane, Dave Sinasac c/o Drew Coulson, Agent

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/10/25 **BE APPROVED** subject to the recommended conditions.

2. PROPOSAL:

The applicant is requesting relief from Zoning By-law 1999-52, as amended, Section 3(3)(f)(vi) which permits a maximum 20 m setback between a primary dwelling and additional dwelling unit.

The applicant is proposing the construction of an inground pool and an additional residential unit in the rear yard. The additional residential unit is proposed to be setback 27.33 m (89.67 ft) from the primary dwelling and 3 m (10 ft) from the rear property line. This will allow for space between the primary and additional dwellings for the proposed inground pool and amenity space.

The proposed remaining setbacks, size, lot coverage and height of the proposed additional residential unit all comply with the applicable zoning provisions.

Therefore, the amount of relief requested is 7.33 m (24.05 ft) in setback between the primary dwelling and additional dwelling unit.

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: 24,338.44 sq ft

Existing structures: single detached dwelling

Proposed Setback between Primary Dwelling and ARU: 27.33 m (89.67 ft)

Permitted Setback between Primary Dwelling and ARU: 20 m

Relief requested: 7.33 m (24.05 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 orderly development of safe and healthy communities;

The owner is permitted to erect an accessory structure containing an additional residential unit 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 an increased setback between the primary dwelling and additional residential unit.

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 and contain an additional residential unit. 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(3)(f)(vi) permits a maximum 20 m setback between a primary dwelling and additional dwelling unit.

The applicant is proposing the construction of an inground pool and an additional residential unit in the rear yard. The additional residential unit is proposed to be setback 27.33 m (89.67 ft) from the primary dwelling and 3 m (10 ft) from the rear property line. This will allow for space between the primary and additional dwellings for the proposed inground pool and amenity space.

The proposed remaining setbacks, size, lot coverage and height of the proposed additional residential unit all comply with the applicable zoning provisions.

Therefore, the amount of relief requested is 7.33 m (24.05 ft) in setback between the primary dwelling and additional dwelling unit.

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 location, size and height of the proposed accessory structure is consistent with the neighbourhood.

The setback relief requested is 7.33 m which will provide additional space between the primary dwelling and additional dwelling unit for the proposed inground pool and amenity space. The lot is large for the neighbourhood providing for a deep rear yard. The proposed location of the accessory structure is appropriate for the 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 accessory structure does not change the character of the neighbourhood and is required by the property owner for an additional residential unit on the property. Lot coverage 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 Policy Statement and 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 has obtained an ERCA permit under Section 28 of the *Conservation Authorities Act* for the proposed structure. 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/10/25 be approved to grant relief of 7.33 m in setback between a primary dwelling and additional residential unit to allow a 27.33 m setback between the structures 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/10/25.
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,



Janine Mastronardi
Secretary-Treasurer

Report Approval Details

Document Title:	A-10-25, 126 Tilford Lane, Dave Sinasac, c.o Drew Coulson, Agent .docx
Attachments:	<ul style="list-style-type: none">- Appendix A- A-10-25- Notice- 126 Tilford Lane.-RM.pdf- Appendix B- A-10-25 - Application_Redacted -RM.pdf- Appendix C- A-10-25 Aerial Map-RM.pdf- Appendix D- A-10-25 Elevations-RM.pdf- Appendix E- A-10-25- Site Photos-RM.pdf- Appendix F- Summary of Correspondence Received on A-10-25-RM.pdf- Appendix G- A-10-25 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