



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: April 24, 2025
Author's Phone: 519 736-5408 ext. 2134	Date to Committee: April 30, 2025
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To: Chair and Members of the Committee of Adjustment

Subject: A/11/25, 250 Seymour Street, Deanne Labutte, c/o DiGiovanni
Construction, 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/11/25 **BE APPROVED**.

2. **PROPOSAL:**

Purpose of Minor Variance Application A/07/25: The applicants are requesting relief from Zoning By-law 1999-52, as amended, Section 3(1)(c) which permits a maximum height of 5.5 m (18 ft) of an accessory structure measured to the peak of the roof in a residential zone.

A minor variance, file A/22/24, was approved on July 3rd, 2024 granting 1.5 m of relief in accessory structure height. During the construction process the main floor ceiling height was built to 9 ft. Through a detailed building review of the structure there were also typical construction variances noted. Additional relief in height of 0.5 m (1.65 ft) is required.

Therefore, the amount of relief requested at this time is 0.5 m (1.65 ft) in accessory structure height.

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

3. BACKGROUND:

As noted in the Proposal, minor variance A/22/24 was approved to grant 1.5 m of relief in height for an accessory structure. During construction it was noted that the height exceeded what was approved. Through a detailed review of the construction drawings it has been noted that an additional 0.5 m relief in accessory structure height is required.

If the minor variance is not approved, to resolve the additional height that does not comply with MV A/22/24, 0.5 m from the peak of the roof will be required to be cut down. The roof is constructed of engineered roof trusses so engineering confirmation would be required.

The applicant is not able to attend the public hearing. Ms. Labutte has provided a letter for Committee consideration along with a list of neighbours who support the structure as built. These items are attached a Appendix D and Appendix E.

4. PLANNING INFORMATION:

Official Plan Designation: Low Density Residential

By-law No. 1999-52: Residential Third Density (R3) Zone

Existing Use: Residential

Proposed Use: Residential- No change

Neighboring Uses: residential and institutional (town hall)

TECHNICAL INFORMATION

Requested/Constructed Accessory Structure Height: 7.5 m

Permitted Accessory Structure Height by MV A/22/24: 7 m

Additional Relief requested: 0.5 m (5 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 appropriate location of growth and development;

The owner is permitted to erect an accessory structure containing a secondary dwelling unit on the municipally serviced property in an existing residential development. The minor variance is required to allow for an increase in height of the accessory structure.

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 contain on the first-floor personal recreation room (no dwelling unit) accessory to the primary dwelling and a secondary dwelling 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.

In my opinion the proposed minor variance maintains the intent of the Official Plan.

3. ZONING BY-LAW

The subject property is zoned Residential Third Density (R3) Zone in Bylaw 1999-52, as amended. The R3 Zone permits single detached dwellings and accessory structures.

Section 3(1)(c) which permits a maximum 5.5 m (18 ft) height of an accessory structure measured to the peak of the roof in residential zones. Minor Variance A/22/24 granted relief of 1.5 m in accessory structure height, permitting a 7 m height to the peak of the roof.

The applicant has constructed a 67.6 sq m (728 sq ft) accessory structure to contain a recreational space accessory to the primary dwelling on the first floor and a secondary dwelling unit on the second floor with a height of 7.5 m to the peak of the roof. During the construction process the main floor ceiling height was built to 9 ft. As a result, a detailed building review of the structure was completed along with typical construction variances noted. It has been determined through inspections and this review that additional relief in height of 0.5 m (1.65 ft) is required.

The existing single detached dwelling has a height of 4.88 m (16 ft). All other provisions of the Zoning By-law are in compliance including the setback between the primary and secondary dwelling units which is proposed at 11.13 m (36.5 ft).

Therefore, the amount of relief requested is an additional 0.5 m in accessory structure height.

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. Lot grading design was submitted and approved by the municipality and is required to be implemented as part of the building permit process.

The accessory structure has been built in the back corner of the property which abuts the Town Hall/Fire Station property and parking lot. While the height of the primary dwelling is 4.88 m (16 ft), less than the 7.5 m accessory structure, there is no loss of privacy as a result of the requested height relief. Appendix D has been provided by the applicant to show no concerns from some adjacent neighbours. At the time of the writing of this report no comments from the public have been received. The applicant also owns the property at 141 Murray Street.

The properties located along Sandwich Street South are designed General Commercial in the Town Official Plan and any redevelopment is permitted a maximum height of five storeys subject to a zoning by-law amendment.

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 increase in height does not change the character of the neighbourhood. There is a variety of uses in the Seymour, Richmond, Sandwich, Gore block which include institutional, commercial, low density residential and multi residential which range from single to two storey buildings.

All of the remaining R3 zone provisions and General Provisions are in compliance. The proposed use of the accessory structure as a secondary dwelling unit is consistent with the Provincial Policy Statement and is in conformity with the Official Plan and Zoning by-law.

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/11/25 be approved to grant additional relief in accessory structure height of 0.5 m to allow for the constructed accessory structure with a footprint of 67.6 sq m (728 sq ft) to contain recreational space accessory to the primary dwelling on the first floor and a secondary dwelling unit on the second floor with a height of 7.5 m to the peak of the roof.

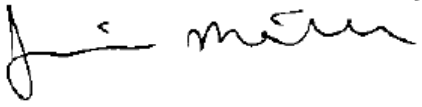
9. CONCLUSION:

From a planning perspective:

- 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,

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

Janine Mastronardi
Secretary-Treasurer

Report Approval Details

Document Title:	A-11-25, 250 Seymour Street, Deanne Labutte, c.o DiGiovanni Construction, Agent.docx
Attachments:	<ul style="list-style-type: none">- Appendix A- A-11-25- Notice- 250 Seymour-RM.pdf- Appendix B- A-11-25- Application_Redacted-RM.pdf- Appendix C- A-22-24- Decision.pdf- Appendix D- Applicant Letter for Agenda.-RM.pdf- Appendix E- Neighbour Support Letter for Agenda-RM.pdf- Appendix F- Summary of Correspondence Received on A-11-25-RM.pdf- Appendix G- A-11-25 PowerPoint-RM.pdf
Final Approval Date:	Apr 25, 2025

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

Chris Aspila