



PORT COLBORNE

**Committee of Adjustment
-Meeting Minutes-**

Wednesday, November 8th, 2023

Members Present: Dan O'Hara, Chair
Angie Desmarais, Committee Member
Eric Beauregard, Committee Member
Gary Bruno, Committee Member

Staff Present: Chris Roome, Planner
Taya Taraba, Acting Secretary-Treasurer

1. Call Meeting to Order

The Chair called the meeting to order at approximately 6:03 PM.

2. Reading of Meeting Protocol

The Chair read the meeting protocol.

3. Disclosures of Interest

Committee Member Eric Beauregard declared a conflict of interest on applications B05-16-PC, B06-16-PC, B07-16-PC, B08-17-PC as the applicant is a client of their employer.

4. Requests for Deferrals or Withdrawals of Applications

Nil.

5. New Business

The Chair motioned for Taya Taraba to be accepted as the Acting Secretary-Treasurer.

Motion: *Angie Desmarais*
Carried: 4 – 0

Seconded: *Eric Beauregard*

- a. Application:** A24-23-PC
Action: Minor Variance
Applicant(s): Jordan Michels and Matthew Beeke
Location: Vacant Lot Oakwood Street

The Secretary-Treasurer read the correspondence received for the application.

The Chair asked the applicants if they wished to add any further information to the application, to which, the applicants were not in attendance.

The Chair asked if any members of the public wished to speak towards the nature of the application, to which, there were no concerns.

The Planner concluded that the minor variance application A24-23-PC be **granted** for the following reasons:

- 1. The application is minor in nature** as the rear yard setback of 4.17m does not negatively impact the subject parcel or neighbouring properties. The proposed structure is located at a permissible distance from the lot lines.
- 2. It is appropriate for the development of the site** as the application is being requested to accommodate a permitted use on the subject property.
- 3. It is desirable and in compliance with the general intent and purpose of the Zoning By-Law** as the proposal meets the majority of the zoning requirements and will be accessory in nature to the primary dwelling as the structure will be used as an amenity space.
- 4. It is desirable and in compliance with the general intent and purpose of the Official Plan** as the Official Plan permits accessory structures established in the Downtown Commercial zone.

Motion: *Angie Desmarais*

Seconded: *Eric Beauguard*

Carried: 4 – 0

- b. Application:** B17-23-PC, A20-23-PC, A21-23-PC
Action: Consent and Minor Variance
Agent: Mayu Balasubramaniam
Applicant(s): Anbalahan Selvaknarajah
Location: 30 Louis Street

The Secretary-Treasurer read the correspondence received for the application.

The Chair asked the present agent, on behalf of the applicant, if they wanted to add any further information to the application; the agent did not have any concerns.

The Chair posed to the agent, regarding the side porch, that the proposed property extension will exceed the lot and whether it would be removed.

The agent responded that they are willing to remove the porch if it is in violation of the by-laws.

The Chair asked the Planner to what extent can they include the porch, to which the Planner responded that they must build the porch 1m from the property line.

The Chair asked if any members of the public wished to speak towards the nature of the application, to which, there were no concerns.

The Planner concluded that the consent application B17-23-PC be **granted** for the following reasons:

1. That the applicant provides the Secretary-Treasurer with a draft transfer and a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.

2. That a final certification fee of \$231 payable to the City of Port Colborne is submitted to the Secretary-Treasurer.

3. That the applicant provides Staff with a master lot grading plan to identify the existing drainage patterns and ensure that the parts, when severed, can drain independently of one another.

4. That the applicant provides the City with a 3.5m x 3.5m sightline triangle at the corner of Fares Street and Louis Street.

5. That the applicant confirms the location of the existing site services to Staff, to the satisfaction of City Staff.

6. That the applicant removes the existing patio on the south side of the dwelling located at 262 Fares Street or alters it in a way that meets the requirements of the by-law or to the satisfaction of City Staff.

7. That minor variance applications A20-23-PC and A21-23-PC be approved.

8. That all conditions of consent be completed by November 8th, 2025.

The Secretary-Treasurer concluded that the minor variance application A20-23-PC and A21-23-PC also be **granted** for the following reasons:

1. The application is minor in nature.

2. It is appropriate for the development of the site.

3. It is desirable and in compliance with the general intent and purpose of the Zoning By-Law.

4. It is desirable and in compliance with the general intent and purpose of the Official Plan.

Motion: Gary Bruno

Seconded: Angie Desmarais

Carried: 4 – 0

c. **Application:** A22-23-PC

Action: Minor Variance

Agent: Chris Lamb

Applicant(s): The Landscape Depot

Location: Vacant Lot Catharine Street

The Secretary-Treasurer read the correspondence received for the application.

The Chair asked the present agent, on behalf of the applicant, if they wanted to add any further information to the application.

The agent expressed that they understood the dismissal of the variance and inquired about purchasing a portion of the parcel to the south. The agent hoped Staff would sell the parcel, otherwise the development cannot move forward.

Member Bruno asked the Planner whether the recommendation would alter if the parcel were sold.

The Planner answered that the purchase of the land cannot be immediately solved; the Agent may be in touch with the Development Officer to proceed with acquiring the parcel.

The Planner stated that it is the decision of the Committee to decide how to proceed and that the Applicant will have to return to discuss the driveway regardless.

The Agent mentioned that the Planner provided an option to defer the application or proceed with the supported variances, although currently, there was no conclusive answer regarding the sale of the parcel.

Member Bruno expressed concern regarding how the Agent was aware the parcel purchase would have to be made but was unaware of the limitations provided by staff.

The Agent responded that they were only informed about such information a week before the Hearing.

Member Beauregard questioned the Agent about the comments within the site plan control.

The Agent disclosed that the initial site plan comments had not been received, however, there were comments from other Staff that had initially supported the

application. The Agent is still, presently, waiting on comments for site plan control applications, as they have not submitted yet.

Member Beauregard mentioned that if the variances are allowed, they will continue in perpetuity. If they construct within a specific design and sell it, but want a different design afterwards, would certain matters such as a 0m variance be permissible.

The Planner recommended that the Agent should potentially seek an application for site plan comments before applying for a variance as the comments will further assist in understanding the footprint of the building.

Member Beauregard asked if there is a particular timeline in which they must meet for such a decision and that a deferral may be the best compromise.

The Chair mentions that there is no timeline in which a decision must be made and that the application would be facing adjournment.

The Chair asked if there was a condition for a site plan agreement within the Planning Comments of the application.

The Planner responds that there was no condition for a site plan agreement, but there is a timeframe for the applicant as the application can become null and void if a year has passed with no significant decision.

Member Beauregard expresses that a site plan control would be beneficial.

Member Bruno asked the Planner provided the sale of the land was conditional, could the application be concluded as opposed to adjourned.

The Planner responded that the conditional sale of the land would be challenging to apply.

Member Bruno inquired about why the site plan is beneficial, as it was not initially included as a condition.

The Planner mentioned that the site plan control would be required anyways due to the number of units the application concerns, hence the condition.

Member Beauregard asked how long it would take to attain a site plan agreement.

The Chair responded that there is no timeline in which he needs to meet the condition, so long as it is met. Once condition is filled, the variance will be obtained.

The Planner mentioned that the only way to hold them to their condition is that they are unable to apply for a building permit until the condition is met.

The Chair asked the agent the whereabouts of the parcel he is looking to acquire.

The Agent responded that there is an undeclared strip of land south of the parcel they are looking to obtain; they require 3m for their proposal and the strip is 3.5m in length.

The Chair proposed that if the land is obtained, then the condition would prove ineffective as the building could be amended to move half a metre to accommodate the necessary setbacks.

The Chair then asked if the 0m buffer is within the parking area.

The Agent answered that it would be located to the south of the property, near the parking and property laneway.

Member Bruno mentioned that more time and thought should be given to this application.

The Chair concludes that the application should be adjourned for the time being and asked if any members of the public wished to speak towards the nature of the application, to which, there were no concerns.

A motion to adjourn this application until the December 13th, 2023 Hearing was moved by Committee Member Desmarais and Seconded by Committee Member Bruno; carried 4-0.

d. **Application:** B05-23-PC, B06-23-PC, B07-23-PC, B08-23-PC

Action: Consent

Agent: Lanthier and Gilmore Surveying Ltd.

Applicant(s): Ralph Rotella

Location: 480 Northland Avenue

The Secretary-Treasurer read the correspondence received for the application.

The Chair asked the present agent, on behalf of the applicant, if they wanted to add any further information on the application.

The agent wished to address the archaeological study required for the property as it was not needed during the initial 2016 application. He requested that the condition for one be cleared.

The Planner mentioned that this concern was present within the pre-consultation stage.

The Chair asked where the condition would be applied to.

The Agent clarified that a clause would be applied to the land itself and if anything concerning was found, the Ministry would be contacted.

Member Desmarais expressed that the archaeological assessment was excessive due to no sensitive items being within the area, as expressed by pre-existing lots on the land.

The Planner responded that the archaeological assessment would have been

requested by the Region due to something being identified within and/or around the land.

Member Bruno proposed that the clause could be on the satisfaction of Planning Staff.

The Planner mentioned that it may not be in their best interest, as it could disregard the already provided comments.

Member Desmarais concurred with Member Bruno, stating that the Region could be contacted to clarify the condition.

The Chair asked what the wording on the consideration would be.

Member Bruno recommended that provided the Region verified what they required to the Planner, then there would not be a need for a Stage 1 Assessment.

The Chair proposed that an additional clause could be added to Condition 6; “unless an alternative method could be applied to the satisfaction of the Planner’s agreement” as a compromise.

The Chair asked if any members of the public wished to speak towards the nature of the application, to which, there were no concerns.

That consent applications B05-23-PC, B06-23-PC, B07-23-PC, B08-23-PC be **granted** subject to the conditions outlined in the staff report dated November 3rd, 2023:

1. That the applicant provides the Secretary-Treasurer with a draft transfer and a copy the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.
2. That a final certification fee of \$231 payable to the City of Port Colborne is submitted to the Secretary-Treasurer.
3. That the applicant provides Staff with a master lot grading plan to identify the existing drainage patterns and ensure that the parts, when severed can drain independently of one another.
4. That the applicant confirms the location of the existing site services to Staff, to the satisfaction of City Staff.
5. That the applicant sign a Memorandum of Understanding stating that they are aware of the requirements for the collection of parkland dedication.
6. That the landowner submits a Stage 1 Archaeological Assessment (plus any subsequent recommended assessments) for the subject property, prepared by a licensed archaeologist, to the Ministry of Citizenship and Multiculturalism

("MCM"), for review and approval with a copy provided to the City of Port Colborne and Niagara Region, unless Planning Staff confirm with the Region that they will be satisfied with the standard archaeological warning clause. The report must be accepted by the Ministry, and a copy of any applicable MCM letters of acknowledgment shall be provided to the Niagara Region prior to clearance of this condition.

7. That the landowner enters into a Development Agreement for Part 1, Part 2, Part 3, and Part 4, respectively, to be registered on title, which requires that the owner implement the recommendations of the Environmental Impact Study (prepared by Colville Consulting Inc., dated November 2019), including but not limited to:
 - a. That a Tree Preservation Plan (TPP) be submitted, to the satisfaction of Niagara Region, that indicates any trees that need to be removed to allow for the development of Part 1, Part 2, Part 3, and Part 4, respectively. The TPP should be prepared in accordance with the Region's Woodland Conservation By-law (By-law 20-79).
 - b. That a Relocation and Monitoring Plan be prepared to the satisfaction of the Niagara Region that identifies a suitable relocation site for any Wild Coffee, Bladdernut, Northern Dewberry, Black Maple and Arrow-leaved Aster individuals required to be relocated and assess the success of the relocation efforts. Monitoring shall include a two-year period post-relocation. A Monitoring Report should be submitted to Regional Development Approvals, with attention to Environmental Planning, developmentplanningapplicaitons@niagararegion.ca by September 1st for 2 years. The Report should also include photographs, a site map and advise of actions necessary to address any deficiencies.
 - c. That the final development plan shall endeavour to retain as many trees, especially Black Maple trees, to the extent feasible, which may necessitate foregoing amenity space. Further, any structures and lot grading shall be designed to minimize impacts to Black Maple trees where possible;
 - d. That the development agreement contain wording wherein the owner agrees to implement the approved Tree Preservation Plan, prior to construction;
 - e. That any required vegetation removal should be conducted in a manner to avoid impacts to nesting birds that may be utilizing habitats on the property. The breeding bird period for Migratory species in this area is generally March 15 to August 31. A survey for active bird nests should be conducted prior to any vegetation removal or site alteration planned to occur during this window; **Note that some non-migratory bird species which are protected under the Fish and Wildlife Conservation Act may be nesting at times outside the above-mentioned window. A survey for active bird nests should be conducted prior to any vegetation removal or site

alteration planned to occur during their respective breeding/nesting windows;

- f. That any required vegetation removal should be conducted in a manner to avoid impacts to any and all Bat species that may use trees seasonally for roosting;
 - g. That existing structures on the property be demolished between October 31 and March 30 to avoid potential impacts to Barn Swallows or bats that may be periodically utilizing the structures.
 - h. That a bat box be installed on the property to provide additional roosting opportunities for bats, installation of which should follow Bat Conservation International (https://www.batcon.org/images/InstallingYourBatHouse_WoodenPost_SteelPole.pdf) guidelines to ensure suitability and utility for target species.
 - i. That any grading or filling to be conducted on the Subject Property be designed to maintain existing overland flow patterns to help avoid hydrological and sedimentation impacts to the woodland.
 - j. That a light duty silt fence be installed at the limit of any excavation and grading to delineate the work area and help minimize impacts (e.g., sedimentation and accidental encroachment) to adjacent vegetation and that the silt fence be properly embedded (as per Ontario Provincial Standard Specification 805) into the ground to reduce any off-site movement of silt. The silt fence used should be one that does not include a mesh component, to avoid risk of entanglement of wildlife.
 - k. That the contractor have a spill kit on site to minimize potential contamination from accidental spills. The equipment should be inspected for leaks and refueling be completed in accordance with best management practices and at least 30 m away from the woodland.
 - l. That continuous, permanent fencing be installed along the rear property line, adjacent to the Significant Woodland, to delineate property boundaries to limit potential encroachment into the woodland;
 - m. That no grading occur within the dripline of the Butternuts located north of the property.
 - n. That all lighting installed be directed downward and away from the woodland to the greatest extent feasible;
8. That the landowner enters into a Development Agreement for Part 1, Part 2, Part 3, and Part 4, respectively, to be registered on title, which implements recommendations of the submitted archeological assessment(s) for the property (if any) and includes the following archaeological warning clause:

“Should deeply buried archaeological remains/resources be found during construction activities, all activities impacting archaeological resources must cease immediately, and the proponent must notify the Archaeology Programs Unit of the Ministry of Citizenship and Multiculturalism (“MCM”) (416-212-8886) and contact a licensed archaeologist to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists. In the event that human remains are encountered during construction, all activities must cease immediately and the local police as well as the Cemeteries Regulation Unit of the Ministry of Public and Business Delivery (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, MCM should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the Ontario Heritage Act.”

9. That all conditions of consent be completed by November 8th, 2025.

For the following reasons:

1. The application is consistent with the Provincial Policy Statement and conforms to the Growth Plan for the Greater Golden Horseshoe, the Regional Official Plan, City of Port Colborne Official Plan, and will also comply with the provisions of Zoning By-law 6575/30/18, as amended.

Motion: Gary Bruno

Seconded: Angie Desmarais

Carried: 3 – 0

6. Other Business

Nil.

7. Approval of Minutes

That the minutes from the Committee of Adjustment meeting held on Wednesday, November 8th, 2023, be approved.

Motion: Angie Desmarais

Seconded: Gary Bruno

Carried: 3 – 0

8. Adjournment

There being no further business, the meeting was adjourned at approximately 7:13 PM.

Dan O'Hara, Chair

Taya Taraba, Secretary-Treasurer