

Growth Strategy and Economic Development

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Via Email Only

January 16, 2024

Region File: D.17.07.MV-23-0119

Taya Taraba
Secretary-Treasurer of the Committee of Adjustment
City of Port Colborne
66 Charlotte Street
Port Colborne, ON, L3K 3C8

Dear Ms. Taraba:

**Re: Regional and Provincial Comments
Proposed Minor Variance Application
City File: A26-23-PC
Owner: Diane Leon
Agent: Craig Esposti
3637 Firelane 12
City of Port Colborne**

Staff of the Regional Growth Strategy and Economic Development Department has reviewed the proposed Minor Variance application for lands municipally known as 3637 Firelane 12 in the City of Port Colborne.

The applicant is proposing to construct a detached dwelling and an accessory structure. In order to facilitate this development, the applicant seeks relief from the City of Port Colborne Zoning By-law 6575/30/18, as amended:

- That a minimum interior side yard setback of 2.05 m be permitted whereas 3 m is required;
- That a minimum lot coverage of 16.16% be permitted whereas 15% is required; and
- That a maximum accessory structure height of 7 m be permitted whereas 6 m is required.

Staff note that there was no formal pre-consultation meeting held to discuss the application. The following comments are provided from a Provincial and Regional perspective to assist the Committee with their consideration of the application.

Provincial and Regional Policies

The property is located within the Rural Lands designation under the *Provincial Policy Statement, 2020* (PPS), *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 Consolidation* (Growth Plan), and the *Niagara Official Plan, 2022* (NOP).

The PPS states that development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted. The NOP states that the predominant use of rural lands will continue to be agriculture, but some non-agricultural related development may be permitted under limited circumstances. The NOP acknowledges that the rural lands along the Lake Erie shoreline contain historic patterns of seasonal and permanent residential development and that these uses and expansions thereof continue to be permitted in accordance with Local official plans and zoning by-law provisions. Furthermore, the NOP notes that accessory structures and redevelopment of legally existing uses are permitted subject to new municipal services not being required, the proposal not expanding into key natural heritage features and key hydrologic features, the proposal does not result in the intrusion of new incompatible land uses and the proposed use is in accordance with the minimum distance separation (MDS) formulae.

Regional staff acknowledge that the proposal contemplates the demolition of an existing single-storey building and shed in order to construct a new two-storey dwelling with a two-storey garage. The proposal does not propose municipal services and will not expand into key hydrologic features, subject to the natural environmental system comments below. No new incompatible land uses are proposed and City staff should be satisfied that MDS is met for the subject property.

Natural Environment System

The subject property is impacted by the Region's Natural Environment System (NES), consisting of Lake Erie and its Shoreline Area. Lake Erie is considered a Key Hydrologic Feature (KHF).

NOP policies require the completion of an Environmental Impact Study (EIS) when development or site alteration is proposed within 120 m of KHFs. The EIS must demonstrate that there will be no negative impact on the features or their ecological function.

Chapter 3 of the NOP requires that a vegetated protection zone be maintained along the Lake Erie shoreline where existing lots are being redeveloped. Through previous communication and review, it has been determined that the existing slope vegetation along the shoreline of this property will satisfy this policy.

Staff note that the proposed demolition and reconstruction work are located within the above-mentioned setbacks. However, NOP policies allow EIS requirements to be

scoped if the proposed development is not anticipated to have a negative impact on the NES. Considering the location of the existing building, the scope of proposed works, and that the proposed works are an expansion of an existing use, staff offer no objection, provided the applicant implements Best Management Practices during construction, including (but not limited to) a Tree Protection Plan (TPP) and an Erosion & Sediment Control (ESC) plan.

There is potential for sensitive habitat in the vicinity as well, including Species At Risk (SAR) habitat. The applicant is encouraged to do their due diligence with respect to their responsibilities under the Endangered Species Act, and contact the Ministry of Environment, Conservation and Parks (MECP), as soon as possible if they have not already done so.

Regional Environmental staff are available to complete a site visit if requested.

Archaeological Potential

The PPS and NOP provide direction for the conservation of significant cultural heritage and archaeological resources. Specifically, the PPS and NOP state that development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved or the land has been investigated and cleared or mitigated following clearance from the Province.

The subject land is mapped within Schedule K of the NOP as an area of archaeological potential. Chapter 6 of the NOP states that where a site proposed for development is located within an area of archaeological potential, a Stage 1 Archaeological Assessment by a licensed archaeologist, as well as a Stage 2 Assessment, where required, shall be circulated to the Region as part of a complete application.

Regional staff has reviewed the submitted Stage 1 & 2 Archaeological Assessment, prepared by Archaeological Consultants Canada (dated November 8, 2023). The Stage 1 background research found that the subject property has archaeological potential due to its proximity to Lake Erie. The Stage 2 assessment consisted of test pit surveys at 5 metre intervals throughout 0.21 hectares of the subject property, as the balance of the property was previously disturbed and/or severely sloped. The Stage 2 field work found no artifacts or other archaeological resources and recommends no further archaeological assessments for the subject area assessed. A portion of the subject land that is within Lake Erie (0.2 hectares) retains archaeological potential and requires a marine archaeological assessment should there be any future development.

Regional staff require acknowledgement from the Ministry of Citizenship and Multiculturalism that the submitted archaeological assessment has been entered into the Ontario Public Register of Archaeological Reports as a condition of licensing in accordance with Part VI of the Ontario Heritage Act. Staff recommend that this be a condition of Minor Variance approval.

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Private Sewage System

Private Sewage System staff has reviewed the proposed Minor Variance application. Regional records indicate that a sewage system consisting of a septic tank and an inground filter bed (Class 4 system) was installed in 2013 with approval from Niagara Region Public Works. The proposed construction will add additional flows to the existing septic system. Private Sewage System staff have reviewed a septic design that appears to accommodate the flow rate required by the proposed construction. More information is required about the retaining wall and lot grading in the location of the inground filter bed.

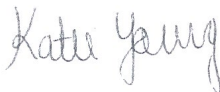
Therefore, Regional PSS staff cannot support the minor variance application as submitted until we receive more information regarding the retaining wall and the lot grading in the location of the inground filter bed.

Conclusion

In conclusion, Regional Growth Strategy and Economic Development staff is not able to support the Minor Variance application currently, until more information regarding the retaining wall and the lot grading in the location of the inground filter bed is reviewed by Regional Private Sewage System. Accordingly, staff recommend deferral of the application until this material is provided. Preliminary conditions related to archaeology and environmental planning are provided in the attached Appendix for information.

Should you have any questions regarding the above comments, please contact the undersigned at Katie.Young@niagararegion.ca.

Kind regards,



Katie Young, MCIP, RPP
Senior Development Planner

cc: Yves Scholten, Planning Ecologist
Devon Haluka, Private Sewage System Inspector

Appendix: Preliminary Regional Conditions of Minor Variance

Appendix

Preliminary Regional Conditions of Minor Variance 3637 Firelane 12, City of Port Colborne

Please note that Regional staff are unable to support the application at this time until additional material is provided with respect to the lot grading in the location of the inground filter bed. The below conditions are provided on a preliminary basis for the applicant's information.

1. That the applicant/owner receive acceptance from the Ministry of Citizenship and Multiculturalism (MCM) for the archaeological assessment report titled Stage 1 & 2 Archaeological Assessment, prepared by Archaeological Consultants Canada (dated November 8, 2023). If the Ministry requires further archaeological work to be completed prior to acknowledging this report, these report(s) must also be submitted to and acknowledged by the Ministry, to the satisfaction of Niagara Region, prior to clearance of this condition. No demolition, grading or other soil disturbances shall take place on the subject property prior to the issuance of a letter from MCM through Niagara Region, confirming that all archaeological resource concerns have met licensing and resource conservation requirements.
2. That the applicant implements Best Management Practices during construction, including (but not limited to) a Tree Protection Plan (TPP) and an Erosion & Sediment Control (ESC) plan.