

**Development and Government Relations Department**

Planning Division Report

September 6, 2024

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

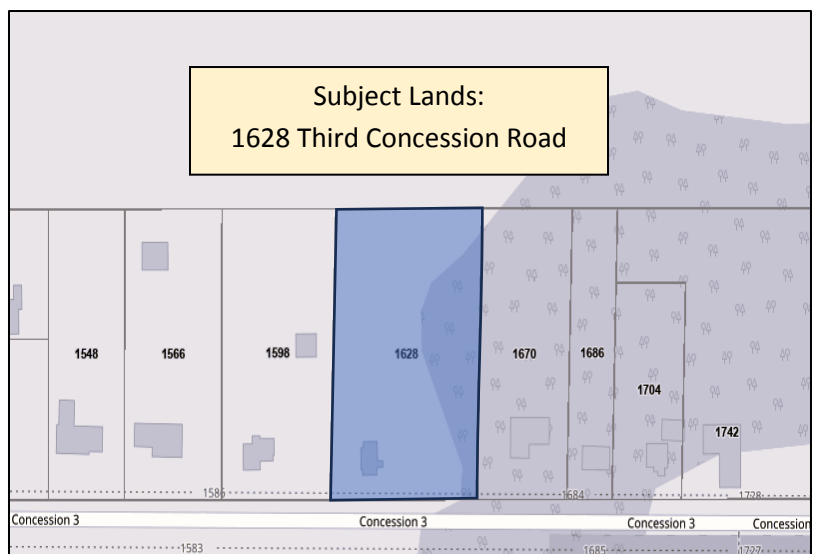
**Re: Application for Minor Variance A20-24-PC  
 1628 Third Concession Road  
 Concession 4, Part Lot 18  
 Agent: Isaac Adams  
 Owner(s): Emily and Andrew Brondes**

**Proposal**

The purpose of this application is to permit an increase in the height of an accessory dwelling unit on the subject lands. The application is requesting that an accessory building height of 7.1m be permitted whereas a maximum of 6m is required. Planning staff note that there were previously two smaller garages in place of the accessory building which were demolished, and that the applicants requested the height variance after significant progress on the garage construction had already been made.

**Surrounding Land Uses and Zoning**

The parcels surrounding the subject lands are zoned Hamlet Residential (HR) to the east and west, Agricultural (A) to the north, and HR, A, and Institutional (I) to the south. The surrounding uses consist of primarily of detached dwellings to the east, west, and south, with an agricultural operation to the north, and vacant lands and a cemetery also present to the south.



## **Official Plan**

The subject lands are designated as Hamlet in the City of Port Colborne Official Plan. This designation supports residential uses, which includes buildings accessory to the main residential use.

## **Zoning**

The subject lands are zoned Hamlet Residential (HR) under Zoning By-law 6575/30/18. The HR zone permits residential uses including detached dwellings, and uses, structures and buildings accessory thereto.

## **Environmentally Sensitive Areas**

The subject lands are impacted by the Region's Natural Environment System consisting of Other Wetlands. Section 4.1.1 (j) of the City's Official Plan states that development within these areas and on adjacent lands will be subject to an Environmental Impact Study. Given the scope of the work being done and that the variance being requested is for the height of the accessory building, Planning staff in consultation with the Region and NPCA, waived these requirements. Section 4.3.5.1 (d) states that the NPCA should be consulted as to whether a permit is required for works in these regulated areas. The Region and NPCA were both circulated on this application for comments.

## **Public Comments**

Notice was circulated on July 31, 2024, as per section 45 (5) of the *Planning Act*, to properties within 60m of the subject lands. As of September 6, 2024, the following has been received.

### Melissa Bigford-Lofquist

"Can you please send me the planning's division report for this minor variance application File A20-24-PC. I have major concerns about the application stating that it is only a minor variance in height considering construction of the garage has already been completed! Is it a garage or a future dwelling as it is larger than the house on the property? Why were building permits not issued before construction started and how are they allowed to just get a variance after the building has been erected? Were any penalties applied for not getting proper permits before construction started?"

### Staff Response

A building permit was issued for the construction of the accessory dwelling unit on April 23, 2024, with the file number PRM-2024-0090. Before the building permit was issued, Planning staff noted that the proposed height of the accessory dwelling unit surpassed what the zoning provisions permitted. The applicant was told to either apply for a minor variance, or reduce the height of the structure, which resulted in their submission of this

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minor variance application on May 29, 2024. The building permit was issued to allow the applicants to begin construction while the minor variance application was being processed. Planning staff have requested that the Building Division halt inspections of the accessory dwelling unit until this application is approved. Should the application not be approved by the Committee of Adjustment, the applicant will be required to ensure the accessory dwelling unit complies with the required 6 metres in height before their building permit can be closed.

### **Agency Comments**

Notice was circulated on July 31, 2024, to internal departments and external agencies. As of September 6, 2024, the following comments have been received:

#### Drainage Superintendent

The subject lands are in the watershed of the Haun and Indian Creek Drains. Given the scope of the work being done and that the variance being requested is for the height of the accessory building, there are no requirements regarding municipal drains.

#### Fire Department

No objections.

#### Engineering Division

No objections.

#### Niagara Region

Regional Staff have no objection to the proposed application. The subject property is impacted by the Region's Natural Environment System (NES), consisting of Other Wetland. The subject land is mapped within Schedule K of the NOP as an area of archaeological potential. Staff understand that the minor variance is required in support of building height, that the construction of the accessory structure is underway, and that disturbance has taken place. As such, in this instance, staff have no formal requirements for the application and offer no objection to the minor variance.

**Note:** Full Regional comments are included in the agenda package for the September 11, 2024, Committee of Adjustment hearing.

#### NPCA

The subject property contains possible unevaluated wetlands. However, as the work is nearing completion, the NPCA has no objections to the proposed height variance. Due to the possible unevaluated wetlands on the property, any future development on the

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property will need to be circulated to the NPCA for review and approval prior to any ground disturbance.

### ***Planning Act – Four Tests***

In order for a Minor Variance to be approved, it must meet the four-part test as outlined under Section 45 (1) of the *Planning Act*. These four tests are listed and analyzed below.

#### ***Is the application minor in nature?***

Staff finds the requested variance to be minor in nature. The variance has been triggered as the new accessory building is 7.1 metres in height, which is in excess of the maximum of 6 metres in height required by section 2.8.1 (a) (ii) of the Zoning By-law. The increase in height constitutes a minor change from the permitted maximum of 6 metres. Staff note that two smaller accessory buildings were previously located in a similar footprint as the new accessory dwelling unit, as depicted in the site plan attached as Appendix A.

The increase in height from 6m to 7.1m will not negatively impact the subject parcel or neighboring properties. The structure is located in front of environmental features which provide a landscaping buffer between the structure and the neighbouring parcel, and thereby mitigate the impact of the increase in height on the neighbouring parcel's view. The maximum height for accessory buildings intends to ensure that accessory structures remain accessory in nature to the primary use of the primary dwelling. In this case, the accessory dwelling unit remains visibly accessory to the main dwelling due to the design elements which are more typical of a garage, such as the large garage doors. Planning staff are satisfied that the application is minor as the requested relief is in keeping with the height of similar structures in the neighbourhood, and allows the accessory building to remain accessory to the dwelling.

#### ***Is it desirable for the appropriate development or use of the land, building, or structure?***

The proposal is desirable and appropriate as the development is located in a suitable location on the site. The accessory structure is located in a side yard due to the environmental constraints on the subject lands. The area where the new accessory structure is being constructed is in a similar footprint to the previous two smaller garages that were demolished. Combining the two small garages into one large accessory building with an accessory dwelling unit uses the lands more efficiently and provides an additional dwelling unit, increasing the supply of available housing in the City. The development is compatible with the majority of the requirements of the Zoning By-law, with the exception of the requested variance; the proposal is therefore desirable for the appropriate development of the subject lands.

#### ***Is it in keeping with the general intent and purpose of the Zoning By-law?***

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The Zoning By-law permits accessory dwelling units within the HR zone, and the proposal meets the majority of the zoning requirements. The accessory structure will remain accessory in nature to the primary dwelling as the accessory structure is not within the front yard, is more than 1 metre from the interior side and rear lot lines, does not exceed 5% of the lot area, as is required by the accessory building provisions established in section 2.8 of the Zoning By-law. Planning staff therefore find the application to be in keeping with the general intent and purpose of the Zoning-By-law.

***Is it in keeping with the general intent and purpose of the Official Plan?***

The Official Plan permits accessory structures and accessory dwelling units within the Hamlet designation. Staff finds this variance application meets the general intent and purpose of the Official Plan.

**Recommendation:**

Given the information above, Planning Staff recommends application A20-24-PC 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.**

Prepared by,



Diana Vasu, BA, MA  
Planner

Submitted by,



Denise Landry, MCIP, RPP  
Chief Planner

Appendix A

← 64.00m →

Site Statistics

Lot Size - 6,534.4 sqm

Lot Coverage - 271.25 sqm

Lot Coverage % - 4.16

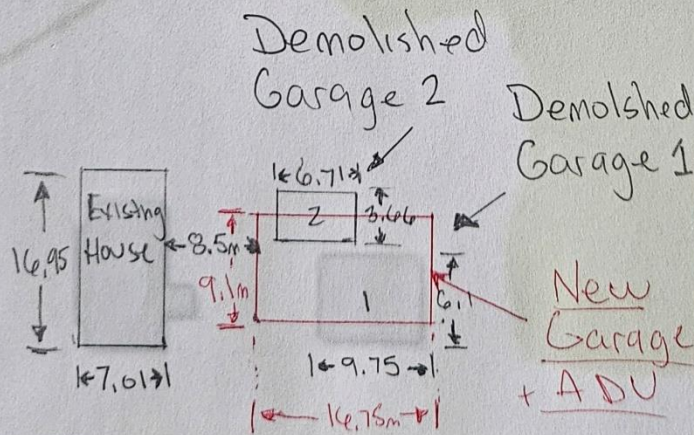
Existing House GFA - 237.63 sqm

ADU GFA - 75.25 sqm

1628

ADU Parking in Garage

102.10m



**3RD CONCESSION ROAD**

Scale 1:500