

Development and Government Relations Department
Planning Division Report

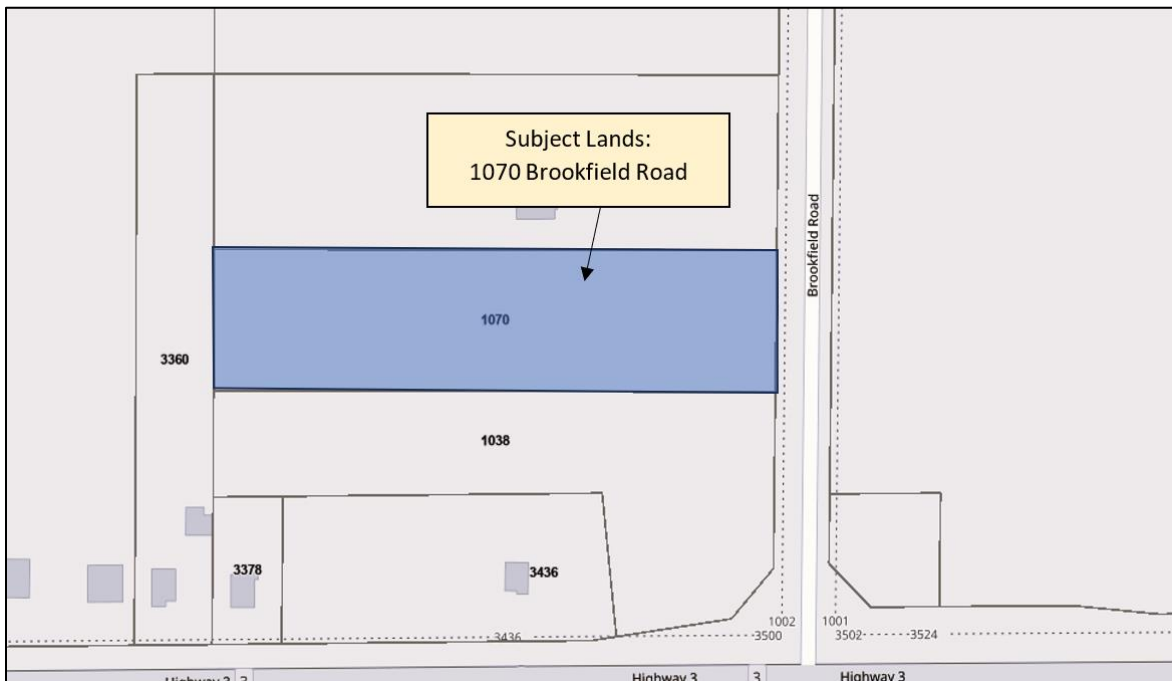
October 4, 2024

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

Re: Application for Minor Variance A24-24-PC
1070 Brookfield Road
Concession 2, Part of Lot 11, Part 1 on Reference Plan 59R14222, formerly
in the Township of Humberstone, now in the City of Port Colborne
Owner(s): Christina and Kolin Mayne
Agent: Julian Allen

Proposal

The purpose of this application is to permit the construction of an addition to the existing garage on the property and convert the structure into an accessory dwelling unit. The application is requesting that an accessory dwelling unit with a floor area of 95% of the gross floor area of the principal dwelling be permitted, where a maximum floor area of 40% of the gross floor area of the principal dwelling is required.



Surrounding Land Uses and Zoning

The parcels surrounding the subject lands are zoned Hamlet Residential (HR) to the north, south, and west. The lands to the east are zoned Agricultural (A), Agricultural Purposes Only (APO), and Agricultural Residential (AR). The surrounding uses consist of primarily of detached dwellings to the east, west, north, and south.

Official Plan

The subject lands are in the Hamlet designation in the City of Port Colborne Official Plan. This designation supports the development of accessory dwelling units.

Zoning

The subject lands are in the Hamlet Residential (HR) zone under Zoning By-law 6575/30/18, which permits residential uses including accessory dwelling units.

Environmentally Sensitive Areas

The subject lands do not contain any environmentally sensitive areas.

Public Comments

Notice was circulated on September 26, 2024, as per section 45 (5) of the *Planning Act*, to properties within 60 metres of the subject lands. As of October 4, 2024, no comments from the public have been received.

Agency Comments

Notice was circulated on August 16, 2024, to internal departments and external agencies. As of October 4, 2024, the following comments have been received:

Drainage Superintendent

No comments.

Fire Department

No objections.

Engineering Technologist

No comments.

Ministry of Transportation (MTO)

The subject lands are within the MTO permit jurisdiction. MTO review, approvals and permits will be required at the time of the building permit.

Niagara Peninsula Conservation Authority (NPCA)

The NPCA have no objection to the proposed variance. NPCA staff noted that there are possible unevaluated wetlands west of the subject lands which would require NPCA review and approval if development were proposed in the back of the lot.

Niagara Region

The Niagara Region identified that this proposal would require the installation of a new septic system. Regional staff required that the applicant provide the design of the new septic system (with spare area). Regional staff also required that an inspection be completed to confirm the condition of the existing septic system. Both requirements have been met by the applicants. Regional staff also noted that the property is mapped for archaeological potential; however, due to the location of the proposed expansion, Regional staff waived their archaeological assessment requirements.

Planning Act – Four Tests

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

Is the application minor in nature?

Planning staff find the requested variance to be minor in nature. The increase in the maximum permitted accessory dwelling unit floor area of 40% the gross floor area of the principal dwelling to 95% is required due to the size of the existing garage. Staff note that, while the applicant requested permission for 95%, a detailed review of the minor variance application in conjunction with data retrieved from prior building permits found that only 77% is required to facilitate the proposal. The existing garage measures 9.14m in width by 9.75m in length, for an existing floor area of 89.12m². The dwelling is approximately 8.3m in width by 15.86m in length, for a total gross floor area of 131.64m². The addition is proposed to measure 6.1m in length by 1.98m in width, for a proposed additional floor area of 12.08m². The total floor area proposed for the accessory dwelling unit is 101.2m². The existing garage floor area is already 68% of the gross floor area of the dwelling, which would require a variance to facilitate the conversion of the garage into an accessory dwelling unit without the proposed addition. The existing structure is situated behind the dwelling, and the addition is proposed to extend towards the rear of the lot, which will help mitigate the increased size of the proposed structure. The maximum accessory dwelling unit floor area provisions intend to ensure that accessory structures remain a secondary use to the primary use of the dwelling. As the area of the accessory dwelling unit with the proposed addition will not exceed the area of the dwelling, Planning staff are satisfied that the application is minor in nature.

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 proposed development reflects the types of dwellings and uses already existing in the neighbourhood. The requested variance is minimal and will facilitate the addition of a new dwelling unit to the supply of housing options within the City. The development is compatible with most of the requirements of the Zoning By-law, with the exception of the requested variance. The new dwelling unit proposed in this application supports a more efficient use of the land and resources that must be expended to service the existing dwelling, which demonstrates that the application is desirable for the appropriate development and use of the land and building.

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

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?

Planning staff find this variance application meets the general intent and purpose of the Official Plan, as the Official Plan permits accessory structures and accessory dwelling units within the Hamlet designation.

Recommendation:

Given the information above, Planning staff recommend application A24-24-PC be **granted** for the following reasons:

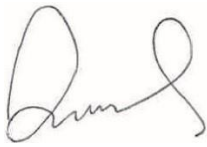
- 1. The application is minor in nature.**
 - 2. It is appropriate for the development of the site.**
 - 3. It is desirable and in compliance with the general intent and purpose of the Zoning By-Law.**
 - 4. It is desirable and in compliance with the general intent and purpose of the Official Plan.**
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Prepared by,

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Diana Vasu, BA, MA
Planner

Submitted by,

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David Schulz, MCIP, RPP
Manager of Planning

Appendix A

