

Development and Government Relations Department

Planning Division Report

November 8, 2024

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

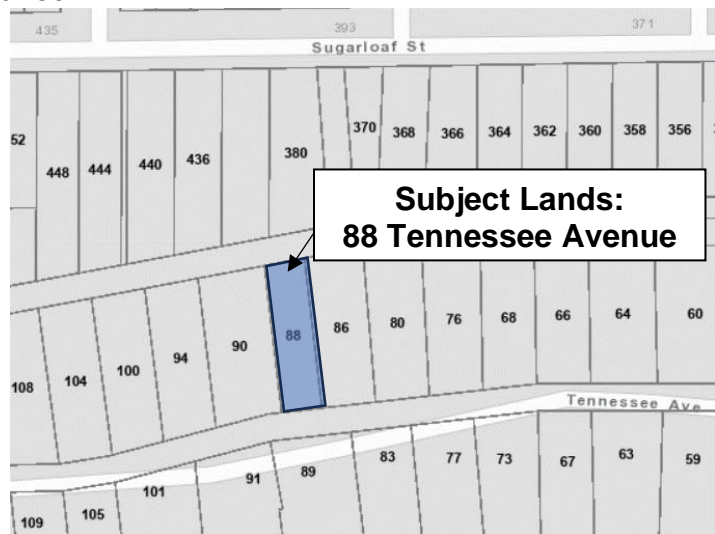
**Re: Application for Minor Variance A25-24-PC
88 Tennessee Avenue
Part of Lot 68 on Plan 3761, on New Plan 776
Agent: Christopher Wilson
Owner(s): James and Kim Kendrick**

Proposal

The purpose of this application is to request that the location of the existing garage be permitted. The application is requesting that a reduced interior side yard setback for an accessory structure of 0.07 metres be permitted, whereas 1 metre is required; and that a reduced a rear yard setback for an accessory structure of 0.44 metres be permitted, whereas a maximum of 1 metre is required.

Surrounding Land Uses and Zoning

The subject lands are in the First Density Residential (R1) zone. The parcels surrounding the subject lands are zoned R1 to the north, south, east, and west. The surrounding uses consist of detached dwellings to north, south, east, and west.



Official Plan

The subject lands are in the Urban Residential designation 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 First Density Residential (R1) in Zoning By-law 6575/30/18. The R1 zone permits residential uses, including detached dwellings and uses, structures, and buildings accessory thereto.

Environmentally Sensitive Areas

The subject lands do not contain any environmentally sensitive areas.

Public Comments

Notice was circulated on October 29, 2024, as per section 45 (5) of the *Planning Act*, to properties within 60 metres of the subject lands. As of November 8, 2024, no public comments have been received.

Agency Comments

Notice was circulated on October 15, 2024, to internal departments and external agencies. As of November 8, 2024, the following comments have been received:

Drainage Superintendent

No objections.

Fire Department

No objections.

Engineering Division

No objections.

Niagara Region

No objections to this application but noted that the property is mapped as an area of archaeological potential in Schedule K of the Niagara Official Plan, 2022, and as such, advised that future *Planning Act* applications on the property may require an archaeological assessment.

***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 is required to legally permit the location of the existing accessory structure, which is 0.07 metres from the interior side yard lot line and 0.44 metres from the rear lot line. Section 2.8.1 (a) (iv) of the Zoning By-law provides that no accessory structure shall be located less than 1 metre from an interior side or rear lot line. The variance was triggered as the property was surveyed and the accessory building was found to be too close to the lot lines. Planning staff are satisfied that the application is minor as the requested relief is for an existing building and no further development has been proposed as a result of this application.

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

The proposal is desirable for the appropriate use of the land and building, as there are no changes proposed to result from this application. The accessory building 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 use of the subject lands.

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

The Zoning By-law permits accessory buildings within the R1 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 and does not exceed 10% 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 buildings within the Urban Residential 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 A25-24-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,

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Planner

Submitted by,

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