

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

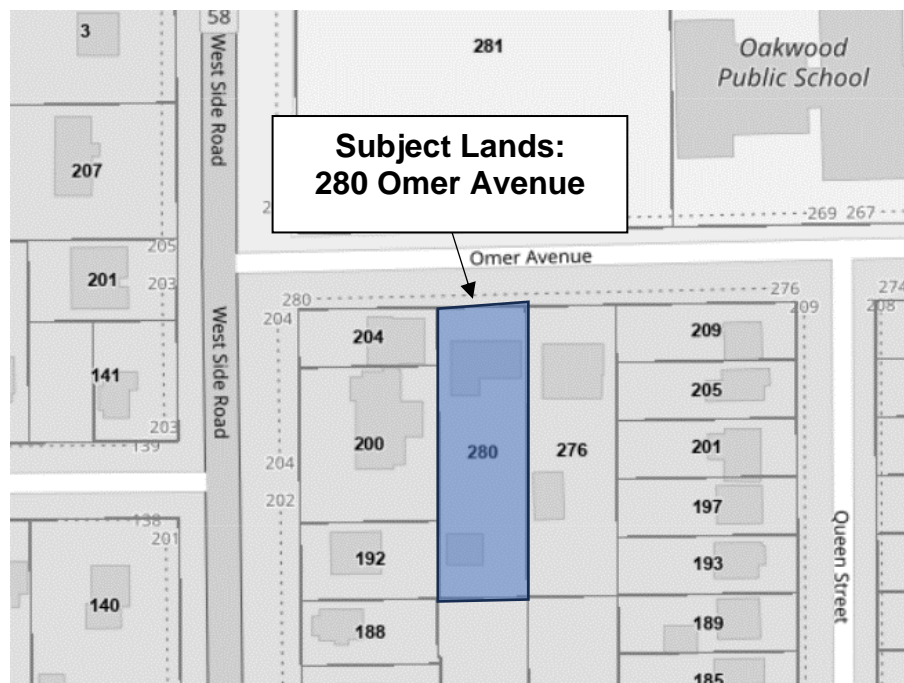
**Re: Application for Minor Variance A27-24-PC
280 Omer Avenue
Lot 28 on Plan 60, on New Plan 819
Owner(s): Domenic and Lindsey Benincasa**

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 7.62 metres be permitted whereas a maximum of 6 metres 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 south, east, and west; Public and Park (P) to the north; and Commercial Plaza (CP) to the west. The surrounding uses consist of primarily of commercial uses to the west, a park to the north, and detached dwellings to 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) under 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.

***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 proposed to be 7.62 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 from 6 metres to 7.62 metres will not negatively impact the subject parcel or neighboring properties because the accessory structure is proposed towards the rear of the lot, which will reduce the visual impact of the increased height. The accessory building remains visibly accessory to the dwelling due to the design elements which are more typical of a garage. All the buildings closest to the proposed accessory building appear to also be accessory buildings, ensuring the proposal will not result in impacts with respect to shadowing or loss of privacy. There are no other anticipated adverse impacts to adjacent properties.

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

The proposed accessory building would be set approximately 56 metres back from the front property line based on the site plan submitted as part of their building permit, which is attached as Appendix A to this report. The accessory structure is proposed to provide additional storage, which is permitted as an accessory use to the main residential use of the lot. The proposal conforms to 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?

The maximum height for accessory buildings intends to ensure that accessory structures remain accessory in nature to the primary use of the dwelling. The proposed variance would provide necessary amenity space and storage to serve as accessory to the single detached dwelling on the lot. The Zoning By-law permits accessory dwelling units 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, is more than 1 metre from the interior side and rear lot lines, would 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 structures and accessory dwelling units 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 A27-24-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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Submitted by,

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Manager of Planning

Appendix A

