

Development and Government Relations

Planning Division Report

December 6, 2024

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

**Re: Application for Minor Variance A19-24-PC
 Plan 32, Lot 126, New Plan 791
 465 Davis Street
 Owner(s): Richard Paré**

Proposal

The purpose of this application is to request that a maximum accessory lot coverage of 26% be permitted, whereas a maximum of 10% is required, and that a minimum setback of an interior side or rear lot line to an accessory structure of 0.55 metres be permitted, whereas a minimum of 1 metre is required. The application has been requested to facilitate the construction of an addition to an existing garage, as depicted in Appendix A.

Surrounding Land Uses and Zoning

The subject lands are in the Second Density Residential (R2) zone. The parcels surrounding the subject lands are zoned R2 to the south, east, and west; the property to the north is in the Neighbourhood Commercial (NC) zone. The surrounding uses consist of detached dwellings to south, east, and west, and a commercial use to the north.



Figure 1 (right): the subject property, 465 Davis Street.

Environmentally Sensitive Areas

The subject lands are not impacted by the Region's Natural Environment System.

Public Comments

Notice was circulated on November 27, 2024, to properties within 60 metres of the subject lands, in accordance with section 44 (5) of the *Planning Act*. As of December 6, 2024, no comments from the public have been received.

Agency Comments

Notice of the application was circulated on November 12, 2024, to internal City departments and external agencies. As of December 6, 2024, the following comments have been received.

Niagara Region

Regional Growth Management and Planning staff offer no objection to the proposed Minor Variance application from a Provincial and Regional perspective, subject to the applicant/owner receiving acceptance from the Ministry of Citizenship and Multiculturalism (MCM) for the archaeological assessment report titled Stage 1-2 Archaeological Assessment, prepared by Detritus Consulting Ltd. (dated October 16, 2024). 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.

Note: Full comments are included in the Committee of Adjustment agenda package dated December 6, 2024.

Staff Response

The letter from the MCM confirming that all archaeological resource concerns have met licensing and resource conservation requirements, to the satisfaction of Regional staff, will be required as part of a complete building permit application.

Drainage Superintendent

No objections.

Fire Department

No objections.

Engineering Division

No objections.

Discussion

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*. An analysis of the four tests follows.

Requested Variance 1:

That a maximum accessory lot coverage of 26% be permitted on a lot with municipal services, whereas a maximum accessory lot coverage of 10% is required for a lot with municipal services.

Is the variance minor in nature?

Planning staff find the requested increase in accessory lot coverage to be minor in nature, as there is a low probability of this variance leading to negative impacts on neighbouring parcels. The variance has been requested to facilitate a proposed addition to the existing accessory structure, which would be constructed towards the rear of the lot, where the structures surrounding the proposed addition also appear to be accessory structures. There are no anticipated compatibility concerns from neighbouring parcels as the addition would be setback far enough from neighbouring dwellings so as to mitigate the increased size.

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

The increase in accessory lot coverage is desirable for the appropriate development of the subject lands. The proposed size of the addition will provide the lot with additional amenity space in the southeastern corner of the lot, which will be facilitate a more efficient use of this portion of the lot. There appears to be a small shed in a portion of the area where the addition is proposed, which the addition would replace. Combining the two smaller structures into one larger one would allow for efficiencies such as providing hydro services to one larger structure rather than two smaller, separate buildings.

Does it maintain the general intent and purpose of the Zoning By-law?

Planning staff find the requested increase in accessory lot coverage maintains the general intent and purpose of the Zoning By-law. The maximum accessory lot coverage provision intends to ensure that accessory structures remain accessory to the primary building on a lot. The accessory structure would still be smaller than the dwelling with the addition constructed, and the location of the proposed addition towards the rear of the lot will ensure the dwelling remains the clear primary use.

Does it maintain the general intent and purpose of the Official Plan?

Planning staff find the requested increase in accessory lot coverage meets the general intent and purpose of the Official Plan. The Official Plan permits residential uses within the Urban Residential designation, which includes buildings accessory thereto.

Requested Variance 2:

That a minimum setback of 0.55 metres be permitted from an interior side or rear lot line to an accessory structure, whereas a minimum setback of 1 metre from an interior side or rear lot line to an accessory structure is required.

Is the variance minor in nature?

Planning staff find the request for a reduced setback to the accessory building to be minor in nature. As the variance has been requested to facilitate adding an addition onto the rear of the existing accessory structure, there is a low probability of this variance leading to negative impacts on neighbouring parcels. The property appears to be fully enclosed by a wooden fence, which would aid in mitigating any negative visual impact of the reduced setback. There are no anticipated compatibility concerns from neighbouring parcels as the addition would be surrounded by accessory structures on the subject and westerly and southerly neighbouring lands, and a parking lot to the north.

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

The reduced setback to the accessory building is desirable for the appropriate development of the subject lands. The existing accessory building is already setback about 0.56 metres from the southern interior lot line as per the sketch attached as Appendix A, thus the request for a 0.55 metre setback would bring the existing structure into compliance. The proposed addition would slightly increase the setbacks as compared to the existing accessory building. The addition proposes to extend the southern wall of the existing structure towards the rear of the lot, which would provide the existing structure and the addition with aesthetic cohesion. The variance would help facilitate a more efficient use of the lands by revitalizing an underutilized portion of the lot.

Does it maintain the general intent and purpose of the Zoning By-law?

Planning staff find the reduced setback to the accessory building maintains the general intent and purpose of the Zoning By-law. The minimum setback requirement of an accessory building to an interior and rear lot line intends to ensure that enough space surrounds an accessory structure to access each exterior wall of the building for future maintenance needs, without encroaching on neighbouring lands. All other zoning provisions pertaining to the accessory structure will still be maintained, including the total permitted lot coverage and the minimum landscaped area requirements of the R2 zone.

Does it maintain the general intent and purpose of the Official Plan?

Planning staff find the reduced setback to the accessory building meets the general intent and purpose of the Official Plan. The Official Plan permits residential uses within the Urban Residential designation, which includes buildings accessory thereto.

Recommendation

Planning staff recommend applications A19-24-PC be **granted** for the following reasons:

1. The applications are minor in nature.
2. They are appropriate for the development of the site.
3. They are desirable and in compliance with the general intent and purpose of the Zoning By-law.
4. They are desirable and in compliance with the general intent and purpose of the Official Plan.

Prepared by,

Diana Vasu, BA, MA

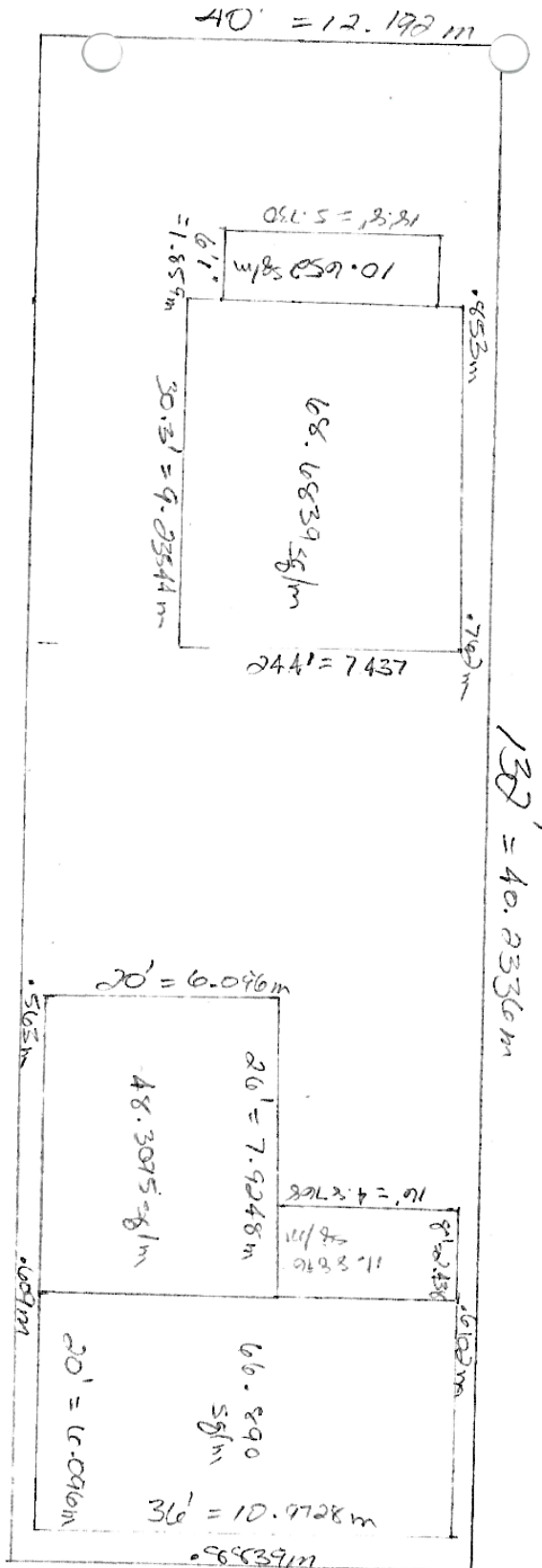
Planner

Submitted by,

David Schulz, MCIP, RPP

Manager of Planning

Appendix A



Lot Size = 490,526 sq ft