

Development and Government Relations

Planning Division Report

January 10, 2025

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

**Re: Application for Minor Variance A01-25-PC
Humberstone Con 1 Pt Lot 9 Pt Water Lot Plan 778 Pt Lots 1 To 3 Pt Private
Reserve and Sand Beach RP 59R5739 Parts 1 and 2
1433 Firelane 1
Owner(s): Frank DiCosimo
Agent: Coleen Potter**

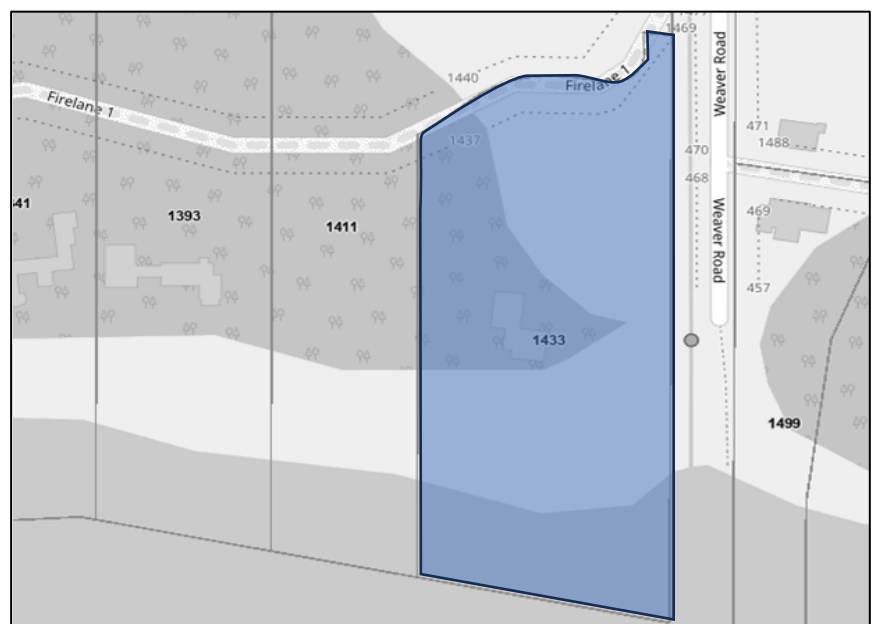
Proposal

The purpose of this application is to request that a maximum accessory building height of 9.4 metres be permitted, whereas the maximum permitted height of an accessory building is 6 metres. The application has been requested to facilitate the construction of a new accessory building, as depicted in the front elevation drawing attached as Appendix A.

Surrounding Land Uses and Zoning

The subject lands are in the Lakeshore Residential (LR) zone. The parcels surrounding the subject lands are zoned LR to the east and west; the parcels to the north are in the Agricultural (A) and Agricultural Residential (AR) zones. The surrounding uses consist of detached dwellings to north, east, and west, with Lake Erie to the south.

Figure 1 (right): the subject property, 1433 Firelane 1.



Environmentally Sensitive Areas

The subject lands are impacted by the Region's Natural Environment System (NES), consisting of Other Woodland, Other Wetland and Lake Erie, including its Shoreline Area. The wetland and lake are considered Key Hydrologic Features (KHF). This application was circulated to the Niagara Region and the Niagara Peninsula Conservation Authority (NPCA) for formal comments. Full comments from each agency are included in the Committee of Adjustment agenda package dated January 10, 2025.

Public Comments

Notice was circulated on December 23, 2024, to properties within 60 metres of the subject lands, in accordance with section 44 (5) of the *Planning Act*. As of January 10, 2025, no comments from the public have been received.

Agency Comments

Notice of the application was circulated on December 9, 2024, to internal City departments and external agencies. As of January 10, 2025, the following comments have been received.

Niagara Region

With respect to the Other Woodland, Other Wetland, and KHF, Regional Growth Management and Planning staff note that Niagara Official Plan (NOP) policy 3.1.5.7.1 requires the completion of an Environmental Impact Study (EIS) when development is proposed within 120 metres of a KHF and within 50 metres of an Other Woodland; however, NOP policy 3.1.9.8.2 allows EIS requirements to be scoped if the proposed development is minor and is not anticipated to have a negative impact on the NES.

Regional Growth Management and Planning staff offer no objection to the proposed minor variance application to construct a new accessory building provided the following conditions are fulfilled:

1. That a Landscape Plan be submitted for Regional approval for a 5 m buffer from the Other Woodland. The plan shall include native trees, shrubs and/or ground cover as appropriate, and complement the existing vegetation community.
2. That the Stage 1-2 Archaeological Assessment, prepared by Detritus Consulting Ltd. (dated October 31, 2024) is submitted to Niagara Region, to match the Ministry clearance letter received.
3. That the Applicant reapplies for a Class 4 Sewage System to service the two-storey dwelling and accessory building.

Note: Full comments are included in the Committee of Adjustment agenda package dated January 10, 2025.

Staff Response

The conditions recommended by Regional staff have been included as recommendations of the approval of this application.

Niagara Peninsula Conservation Authority (NPCA)

No objections.

Note: Full comments are included in the Committee of Adjustment agenda package dated January 10, 2025.

Drainage Superintendent

The Drainage Superintendent has noted that the proposed building is more than 10 metres away from top of bank on the municipal drain and therefore offered 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.

Is the variance minor in nature?

Planning staff find the requested increase in accessory building height 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 the construction of a new accessory building, which would be constructed on a portion of the lot with a significantly lower elevation than that of the dwelling. There are no anticipated compatibility concerns from neighbouring parcels as the accessory building is proposed in a location surrounded by landscaping features which will help mitigate the impact of the increased size on neighbouring parcels.

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

The increase in accessory building height is desirable for the appropriate development of the subject lands. The height proposed for the new accessory building has been requested to allow the applicant to construct a two-storey garage, with the goal of

maintaining a smaller building footprint. The northern portion of the lot includes constraints such as an existing concrete foundation which is proposed to be removed to accommodate a new septic bed, while the southern portion of the lot is proposed to be demolished to accommodate a future larger dwelling, as depicted in Appendix B. The environmental features on and around the lot pose additional constraints to the building footprint. The increased height is proposed to allow for the desired amenity space while ensuring the natural features are protected and the lot can accommodate the septic system that will be required by the future dwelling.

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

Planning staff find the requested increase in accessory building height maintains the general intent and purpose of the Zoning By-law. The maximum accessory building height provision intends to ensure that accessory buildings remain accessory to the primary building on a lot. The accessory building would still be smaller than the dwelling, and the lower ground elevation of the proposed accessory building will help mitigate the visual impact of the increased height, as the higher ground elevation of the dwelling will ensure the accessory building remains visibly accessory to the primary use.

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

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

Recommendation

Planning staff recommend application A01-25-PC be **granted**, subject to the following conditions:

1. That a Landscape Plan be submitted for Regional approval for a 5 m buffer from the Other Woodland. The plan shall include native trees, shrubs and/or ground cover as appropriate, and complement the existing vegetation community.
2. That the Stage 1-2 Archaeological Assessment, prepared by Detritus Consulting Ltd. (dated October 31, 2024) is submitted to Niagara Region, to match the Ministry clearance letter received.
3. That the Applicant reapplies for a Class 4 Sewage System to service the two-storey dwelling and accessory building.

For the following reasons:

1. The application is minor in nature.
2. It is desirable for the appropriate development of the site.
3. It maintains the general intent and purpose of the Zoning By-law.
4. It maintains 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

