
Development and Government Relations

Planning Division Report

April 4, 2025

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

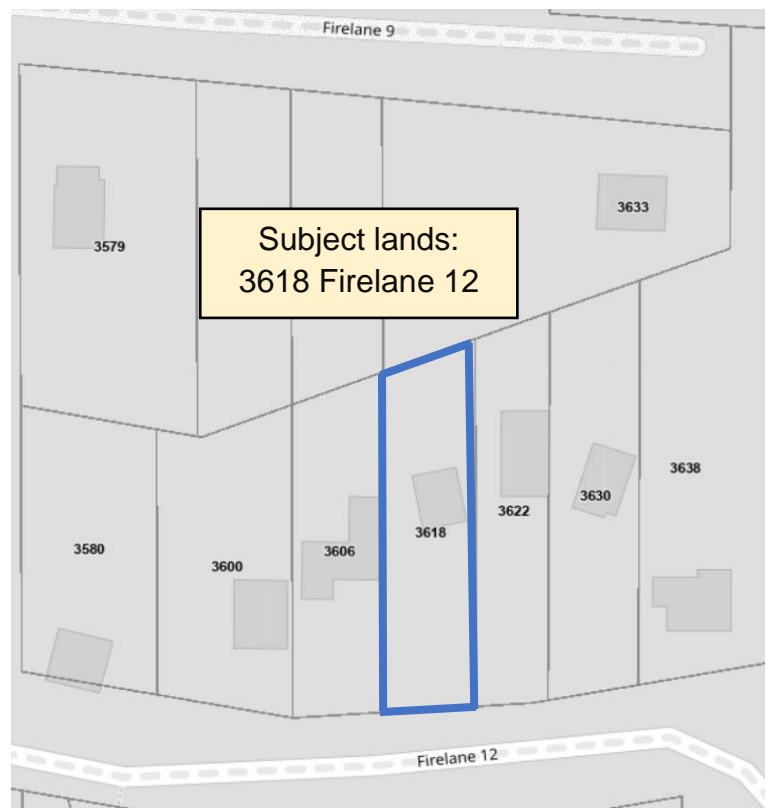
Re: Application for Minor Variance A07-25-PC
Lot 32 on Plan 52, New Plan 811
3618 Firelane 12
Owner(s): Chris Simpson

Proposal

The purpose of this application is to request that a minimum interior side yard setback of 0.68m be permitted, whereas a minimum setback of 4m is required; that a maximum lot coverage of 15.9% be permitted, whereas a maximum lot coverage of 15% is required; and that a front yard setback of 6 metres for the accessory building be permitted, whereas a minimum setback of 10 metres is required. The application has been requested to facilitate the construction of a new residential dwelling and accessory building, as depicted in the sketch attached as Appendix A.

Surrounding Land Uses and Zoning

The subject lands are in the Rural Residential (RR) zone with an Environmental Conservation (EC) overlay. The parcels surrounding the subject lands are zoned RR with an EC overlay to the north, south, east, and west. The surrounding uses consist of detached dwellings.



Environmentally Sensitive Areas

The subject lands are impacted by the Region's Natural Environment System (NES), consisting of Other Wetlands, which are considered Key Hydrologic Features (KHF) outside of Settlement Areas. The property also contains possible unevaluated wetlands and Dune Features that have Unstable Soil Hazards, which are regulated by the Niagara Peninsula Conservation Authority (NPCA). This application was circulated to the Niagara Region and the NPCA for formal comments. Full comments from each agency are included in the Committee of Adjustment agenda package dated April 4, 2025.

Public Comments

Notice was circulated on March 25, 2025, to properties within 60 metres of the subject lands, in accordance with the *Planning Act*. As of April 4, 2025, no comments from the public have been received.

Agency Comments

Notice of the application was circulated on March 12, 2025, to internal City departments and external agencies. As of April 4, 2025, the following comments have been received.

Niagara Region

With respect to the Other Wetland and KHF, Regional Growth Management and Planning staff note that Niagara Official Plan (NOP) policy 3.1.9.8.1 states that a proposal for new development or site alteration within 120 m of a KHF/natural heritage feature or area will require an Environmental Impact Study (EIS) that identifies a minimum 30 m Vegetation Protection Zone (VPZ), to be established as natural self-sustaining vegetation. Development or site alteration is generally not permitted within a KHF or its VPZ. The EIS must demonstrate that there will be no significant negative impact on the features or their ecological function.

However, NOP policy 3.1.9.8.2 states that EIS requirements can be scoped if the proposed development is minor and is not anticipated to have a negative impact on the NES. As the proposal is for a reconstruction of a dwelling on a similar footprint and for a garage that is located further away from the feature, staff are satisfied that the future development will be minor and not have a negative impact on the NES, provided that standard Erosion and Sediment Control (ESC) fencing and Best Management Practices are implemented during construction. Staff offer no objection to the minor variance.

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

Staff Response

ESC fencing and Best Management Practices will be addressed as part of the building permit process.

Niagara Peninsula Conservation Authority (NPCA)

NPCA has no objection to the construction of a new dwelling, detached garage, septic and cistern at the subject property, subject to the following condition:

- The NPCA work permit would be required prior to the commencement of the works on site as the proposed development encroaches within NPCA regulated area.

Please note that the areas of disturbed soil will need to be stabilized post construction to a pre-disturbed state or better. The native seed mix suited for dunes is recommended to ensure better soil stabilization and site restoration success over the long term.

Any future development within a NPCA Regulated area will require NPCA review, approval and Permits from this office prior to the commencement of any works on site.

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

Staff Response

An NPCA permit will be required as part of the building permit process.

Fire Department

No objections.

Engineering Division

No objections. Please note that a proposed grading plan will be required at the time of building permits.

Discussion

For a minor variance application to be approved, it must meet the four-part test outlined under section 45 (1) of the *Planning Act*. An analysis of the four tests follows.

Variance 1: Requesting that a minimum interior side yard setback of 0.68 metres be permitted, whereas a minimum interior side yard setback of 4 metres is required.

Is the variance minor in nature?

The requested decrease in the minimum interior side yard is minor in nature, as this variance is unlikely to cause negative impacts on neighbouring parcels. The variance has been requested to facilitate the demolition and reconstruction of the dwelling and accessory building in similar footprints to the existing structures. There are no anticipated compatibility concerns from neighbouring parcels as the buildings are proposed to be reconstructed in close to their existing size and layout.

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

The requested decrease in the minimum interior side yard is desirable for the appropriate development of the subject lands, as the design has had to be prepared in accordance with the Slope Stability Assessment which forms part of this application. The lot features environmental and landscaping features that constrain the buildable portion of the land. The decreased interior side yard is proposed to allow for the new dwelling to maximize the space available for development between the dunes, while ensuring the natural features are protected and the lot can accommodate the required septic system.

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

The requested decrease in the minimum interior side yard maintains the general intent and purpose of the Zoning By-law. This provision intends to ensure that dwellings are adequately spaced from one another. The new building envelope is proposed to be moved 1.4 metres to the east, which will still maintain an appropriate distance from the neighbouring dwelling.

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

The requested decrease in the minimum interior side yard 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.

Variance 2: Requesting that a maximum lot coverage of 15.9% be permitted, whereas a maximum lot coverage of 15% is required.

Is the variance minor in nature?

The requested increase in the maximum lot coverage is minor in nature, as this variance is unlikely to cause negative impacts on neighbouring parcels. The variance has been requested to facilitate the demolition and reconstruction of the dwelling and accessory building in similar footprints to the existing structures. There are no anticipated compatibility concerns from neighbouring parcels as the buildings are proposed to be reconstructed in close to their existing size and layout.

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

The requested increase in the maximum lot coverage is desirable for the appropriate development of the subject lands, as the increased coverage will help maximize the space that can be built up on the lot. The Slope Stability Assessment confirms there will be no negative impact on the slope as a result of the proposed construction.

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

The requested increase in the maximum lot coverage maintains the general intent and purpose of the Zoning By-law. This provision intends to ensure that lots maintain a balance between built up and naturalized areas. The proposed increase of 0.9% lot coverage will not result in a noticable change in the mix of buildings and landscaped areas on the lot.

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

The requested decrease in the minimum interior side yard 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.

Variance 3: Requesting that a front yard setback of 6 metres for the accessory building be permitted, whereas a minimum setback of 10 metres is required.

Is the variance minor in nature?

The requested decrease in the front yard setback of 6 metres is minor in nature, as this variance is unlikely to cause negative impacts on neighbouring parcels. The variance has been requested to facilitate the demolition and reconstruction of the dwelling and accessory building in similar footprints to the existing structures. There are no anticipated compatibility concerns from neighbouring parcels as the buildings are proposed to be reconstructed in close to their existing size and layout.

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

The requested decrease in the front yard setback is desirable for the appropriate development of the subject lands, as the decreased front yard will help maximize the space that can be built up on the lot. The Slope Stability Assessment confirms there will be no negative impact on the slope as a result of the proposed construction.

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

The requested decrease in the front yard setback maintains the general intent and purpose of the Zoning By-law. This provision intends to ensure that dwellings are kept adequately setback from the lot frontage, and to provide a measure of uniformity to a streetscape. The decrease in the front yard setback will not result in negative impacts to the streetscape as the unique lot shapes and environmental features have resulted in a diverse mix of front yard sizes along the street. The proposed structures will still be able to maintain the character of the neighbouring parcels as a result of allowing the decreased front yard setback.

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

The requested decrease in the minimum interior side yard 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

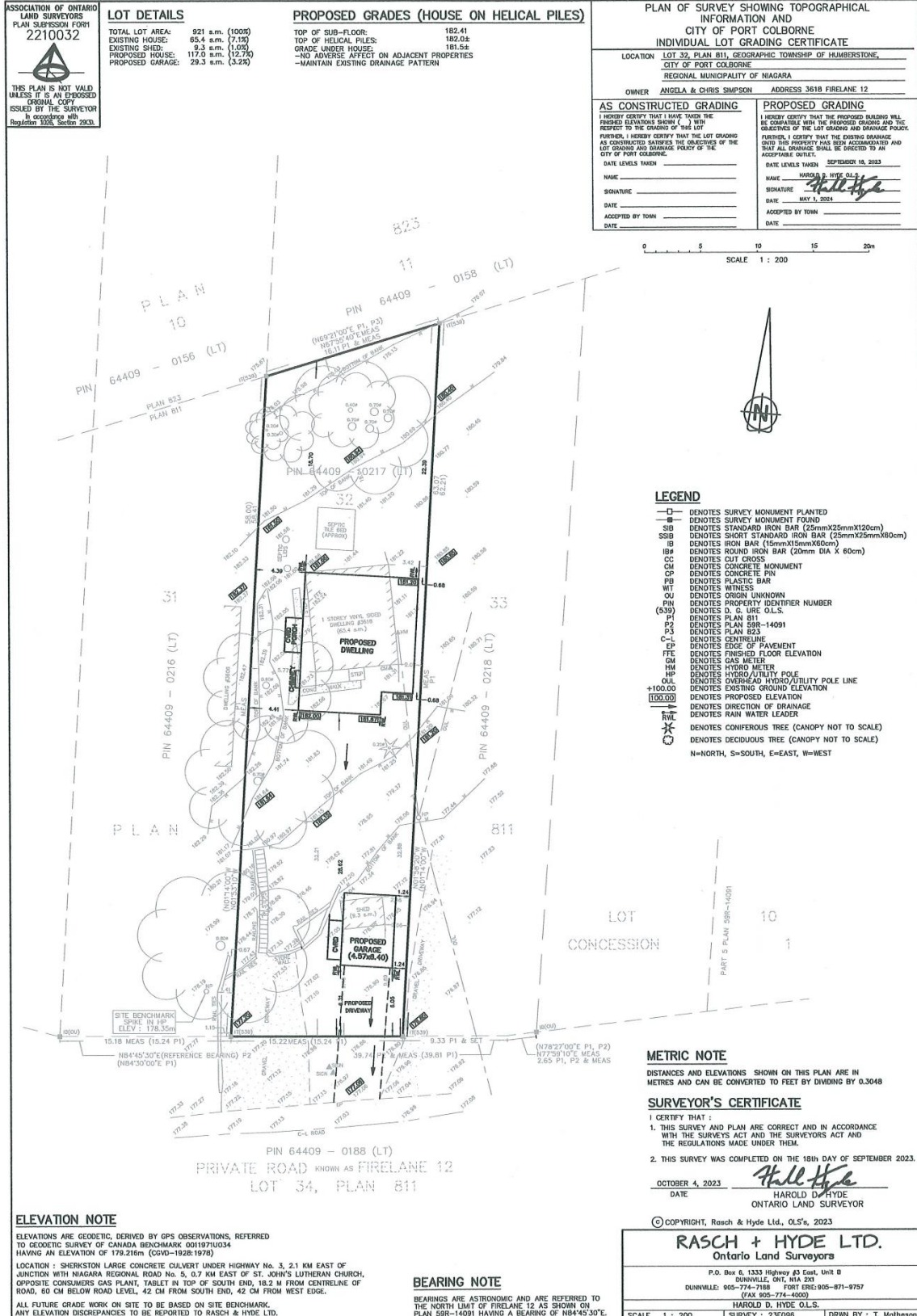
That minor variance application A07-25-PC be **granted** for the following reasons:

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.

Respectfully submitted,

Diana Vasu
Planner

Appendix A



ELEVATION NOTE

ELEVATIONS ARE GEODETIC, DERIVED BY GPS OBSERVATIONS, REFERRED TO GEODETIC SURVEY OF CANADA BENCHMARK 00197U034 HAVING AN ELEVATION OF 179.216m (CGVD-1928:1978)

LOCATION: SHERKSTON LARGE CONCRETE CULVERT UNDER HIGHWAY No. 3, 2.1 KM EAST OF JUNCTION WITH NIAGARA REGIONAL ROAD No. 3, 0.7 KM EAST OF ST. JOHN'S LUTHERAN CHURCH, OPPOSITE CONSUMERS GAS PLANT, TABLET IN TOP OF SOUTH END, 18.2 M FROM CENTRELINE OF ROAD, 60 CM BELOW ROAD LEVEL, 42 CM FROM SOUTH END, 42 CM FROM WEST EDGE.

ALL FUTURE GRADE WORK ON SITE TO BE BASED ON SITE BENCHMARK.
ANY ELEVATION DISCREPANCIES TO BE REPORTED TO RASCH & HYDE LTD.

BEARING NOTE

BEARINGS ARE ASTRONOMIC AND ARE REFERRED TO THE NORTH LIMIT OF FIRELANE 12 AS SHOWN ON PLAN 598-14091 HAVING A BEARING OF N84°45'30"E.