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**Development and Legislative Services**

**Planning Division Report**

June 9th, 2023

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

**Re: Application for Minor Variance A11-23-PC**  
**38 Church Street**  
**Plan 1761; New Plan 772 Lot 8**  
**Agent:**  
**Owner(s): Victor Denobriga**

**Proposal:**

The purpose and effect of this application is to permit the construction of a proposed accessory structure. The applicant is requesting a height of 7.3m be provided whereas 6m is permitted for accessory structures. All other provisions of the Zoning By-law are proposed to be met.

**Surrounding Land Uses and Zoning:**

The parcels surrounding the subject lands are zoned Second Density Residential (R2) to the north, east, south, and west. The surrounding land uses consist of single detached dwellings to the north, south, east, and west.



**Official Plan:**

The subject property is designated as Urban Residential in the City's Official Plan. Accessory structures are a permitted use under this designation.

**Zoning:**

The subject property is zoned R2, in accordance with Zoning By-Law 6575/30/18. Accessory structures are a permitted use in this zone.

## **Environmentally Sensitive Areas:**

This subject property is not located within an Environmentally Sensitive Area, and therefore will not be impacted by any environmental systems within the City's Official Plan.

## **Public Comments:**

Notice was circulated to the public on June 2<sup>nd</sup>, 2023, as per Section 45 (5) of the Planning Act. As of June 9<sup>th</sup>, no comments from the public have been received.

## **Agency Comments:**

Notice was circulated on May 15<sup>th</sup>, 2023 to internal departments and external agencies. As of June 9<sup>th</sup>, 2023, the following comments have been received.

### Drainage Superintendent

No comments on the proposed application.

### Engineering Technologist

No comments on the proposed application.

### Fire Department

No objection to the proposed application.

### Niagara Region (these comments are summarized, please see full comments in agenda package)

The Niagara Official Plan outlines that the subject property is mapped within Schedule K of the Official Plan as an area of archaeological potential. The Niagara Official Plan Policy 6.4.2.6 states that a Stage 1 Archaeological Assessment is required from a licensed archaeologist, for any development and site alteration within an area of archaeological potential. However, given the minor nature of the application, regional staff do not offer any archaeological assessment requirements.

In the event of an assessment, warning clauses are provided to the applicant for instructions in case of any resources discovered in the construction process and is outlined in detail within the full regional comments.

## **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 increase in height from 6m to 7.3m will not negatively impact the subject parcel or neighboring properties. The proposed structure is located at a permissible distance from the lot lines and is located behind the existing dwelling, therefore the increase in height will not produce visibility concerns. The proposed height requirements intend to ensure that accessory structures remain accessory in nature, to the

primary use of the main dwelling. In this instance, the proposed structure will not exceed the height of the main dwelling, which is approximately 7.9m tall.

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

The proposal is desirable and appropriate as the application is being requested to accommodate a permitted use on the subject property. The proposed structure is located in the applicant's rear yard and will be set back approximately 18.6 meters from the front property line, and approximately 2.44 meters behind the existing dwelling. The distance and location will result in the proposed accessory structure having less of a visual impact from the road. Accessory structures are a permitted use in the R2 zone and the application is compatible with the majority of the requirements of the zoning by-law, with the exception of the requested minor variance.

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

The Zoning By-law permits accessory structures within the R2 zone, and the proposal meets the lot coverage requirements and will be accessory in nature to the primary dwelling as the structure will not be larger than the primary dwelling. The intent of the height requirement is to ensure accessory structures remain accessory in nature. In this case, the proposed height increase will not exceed the main dwelling and still maintains the intentions of the Zoning by-law requirements. Staff finds 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 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 A11-23-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,



Chris Roome, BURPI  
Planner

Submitted by,

A handwritten signature in black ink, appearing to read 'Denise Landry', with a horizontal line drawn across it.

Denise Landry, MCIP, RPP  
Chief Planner