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**Development and Legislative Services**

Planning Division Report

June 9, 2023

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

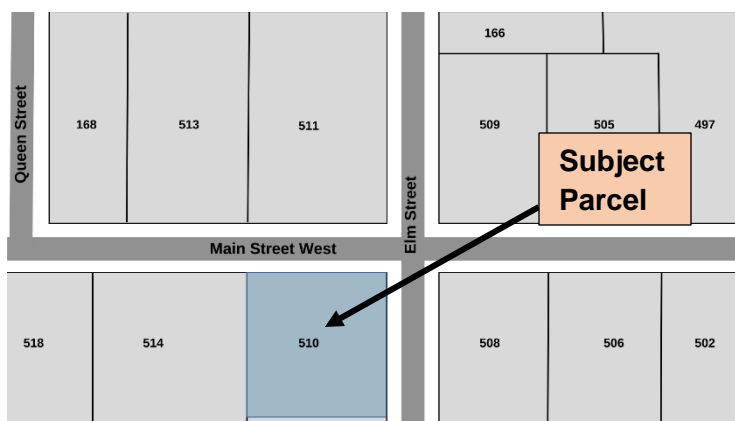
**Re: Application for Minor Variance A12-23-PC  
Plan 797 on Lots 111 and 112  
510 Main Street West  
Agent: Joseph Tomaino  
Owner(s): Susan Nenadovich**

**Proposal:**

The purpose and effect of this application is to permit a lot area reduction from 500m<sup>2</sup> to 489.03m<sup>2</sup> and a rear yard reduction from 6 metres to 2.04 metres. The applicant is requesting the variances to facilitate the creation of a new residential lot and to construct a new single detached dwelling.

**Surrounding Land Uses and Zoning:**

The subject property is located within a Mixed-Use Zone (MU). The parcels surrounding the subject lands are zoned Mixed-Use to the north, east, and west and Second Density Residential (R2) to the south. The surrounding uses consist of detached dwellings to the north, south, east, and west.



**Official Plan:**

The subject property is designated as Downtown Commercial (DC) in the City's Official Plan. Residential uses are permitted under this designation.

**Zoning:**

The subject property is zoned Mixed Use (MU) in accordance with Zoning By-Law 6575/30/18. Residential uses are permitted within this zone.

**Environmentally Sensitive Areas:**

The subject property does not contain any environmentally sensitive areas.

**Public Comments:**

Notice was circulated on May 31<sup>st</sup>, 2023, as per Section 45 (5) of the Planning Act, to properties within 60m of the subject lands. As of June 9<sup>th</sup>, 2023, 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.

Ministry of Transportation Ontario

The subject site appears to be located within the MTO Permit Control Area for Highway 140 and as a result, the applicant should be made aware that an MTO Building and Land Use Permit will be required from this office prior to the start of any onsite construction/works.

Drainage Superintendent

There are no comments regarding municipal drains for these applications.

Fire Department

No objection to the proposed application.

Engineering Technologist

A master grading plan is recommended to ensure that the severed parcels will drain independently and without adversely affecting the adjacent property. A municipal consent permit is also required for the construction of a new entrance or an alteration of existing entrances on Oakwood Street.

Staff Response

A master lot grading plan was added as a condition of the consent application B10-23-PC.

**Planning Justification Brief:**

As part of a complete submission, Planning Staff required the submission of a Planning Justification Brief. The following is a summary of the brief submitted by the applicant, Joseph Tomaino

The requested variance for Part 2 is for the minor reduction of lot area from 500 square metres to 489.03 square metres. The relief being sought would not result in any negative impacts to adjacent

properties. The requested variance for Part 1, the retained parcel with the existing residential duplex dwelling, is for the rear yard setback. The requested variance is of a technical nature to recognize the change of the lot frontage line from Main Street West to Oakwood Street. The driveway access will remain on Oakwood and while this will be in the “technical rear yard”, operationally it will be the side yard.

The requested variance is desirable for the development of the land and facilitates the creation of a new lot of record. The subject retained lot has a lot coverage of only 25% and provides sufficient amenity/landscaped area for the subject lot that contains the duplex dwelling. No negative impacts to adjacent properties are anticipated. It is my opinion the requested variances would maintain the general intent and purpose of the zoning by-law.

The proposed variances to facilitate the development of a single detached dwelling is compatible with the adjacent properties. The proposed new dwelling will be consistent with the scale of development in the neighbourhood and is in keeping with the character of the neighbourhood. Therefore, the requested variances would maintain the general intent and purpose of the Official Plan.

Planning Staff does not object to any of the justifications provided by Mr. Tomaino.

### **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?***

The requested variance for the reduction of lot area from 500m<sup>2</sup> to 489.03m<sup>2</sup> is minor, as an 11-metre difference will not drastically change the size of the property and would not negatively impact the adjacent properties. The reduced rear yard reduction from 6 to 2.04 meters is due to the change in the technical rear yard, as a result of the frontage changing to Main Street through the consent application. The property still provides amenity space in the corner side yard, and the new rear yard setback is previously existing.

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

The requested variance is desirable for the development of the site and facilitates the creation of a new lot. The retained lot has a lot coverage of 25% and will provide enough amenity space and landscaped area along the corner side yard for the subject lot containing the duplex dwelling. The surrounding parcels consist of residential dwellings and lots of similar size, therefore this is an appropriate development for the surrounding area.

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

The requested variance is in keeping with the general intent and purpose of Zoning Bylaw 6575/30/18. The minor changes to the lot area do not affect the lot frontage, which aligns with the parcel fabrication of the surrounding properties. Secondly, the duplex dwelling will remain in place, whereas the front and side yard setbacks, driveway space, and amenity space will remain intact. The purpose of the rear yard setback provisions is to ensure there is adequate spacing between buildings and to provide enough amenity space, however staff are satisfied that the dwelling fits appropriately on the subject parcel and amenity space can be provided in the corner side yard.

#### ***Is it in keeping with the general intent and purpose of the Official Plan?***

The subject property is in keeping with the general intent and purpose of the City of Port Colborne Official Plan, as the Downtown Commercial designation permits residential uses. The proposed

development and Minor Variance application appear to be consistent with the scale of developments in the neighbourhood and is in keeping with the nature of the community. In this instance, the requested variances would align with the general intent and purpose of the Official Plan.

### **Recommendation:**

Given the information above, Planning Staff recommends application A12-23-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,



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Chief Planner