

City of Port Colborne
Committee of Adjustment Meeting Minutes

Date: Wednesday, May 10, 2023
Time: 6:00 pm
Location: Council Chambers, 3rd Floor, City Hall
66 Charlotte Street, Port Colborne

Members Present: E. Beauregard, Councillor
D. Elliott, Councillor
G. Bruno, Councillor
A. Desmarais
D. O'Hara

Staff Present: D. Vasu, Planning Tech, Secretary Treasurer
C. Roome, Planner
R. Dreher, Planning Student (minutes)

1. Call to Order

The Chair called the meeting to order at approximately 5:58 pm.

2. Reading of Meeting Protocol

The Chair read the Meeting Protocol.

3. Disclosures of Interest

Nil.

4. Request for Any Deferrals or Withdrawals of Applications

Nil.

5. New Business

5.1 Application: A10-23-PC

The Secretary-Treasurer read the correspondence received for these applications.

The Chair asked the applicants present at the meeting, Catherine and Tyler Melnike, if they wished to add any further information to the application.

The applicants stated their intention to keep their dogs quiet as they insist on establishing a clean and appropriate living environment for the dogs.

Member Bruno noted that the mitigation of noise would be a primary concern arising from the habitation of the dogs on the property and asked the applicants how they will manage the noise on the property from the proposed kennel.

The applicants responded that they have a wooden fence to alleviate noise, in addition to their staff, who train the dogs to refrain from excessive barking.

Member Desmarais stated concern regarding the potential odour from the dogs and the kennel towards the adjacent property at 2754 Brookfield Road and asked the applicants if they received any concerns from the property owners.

The applicants insisted they were not aware of the odour concerns from the property owners at 2754 Brookfield Road.

The Chair asked if any members of the public audience wished to speak on behalf of the application.

Michelle Szabo, neighbour of 2710 Brookfield Road, expressed concern towards the application, noting that she had moved to the countryside to have tranquillity, and stated the existing wooden fence does not mitigate the noise from the dogs.

Zack Szabo, neighbour of 2710 Brookfield Road, expressed concern regarding traffic safety on Brookfield Road, stating that the number of accidents along the road may impact the safe operation of the dog kennel.

Member Elliott noted that kennels are a permitted use in the Agricultural zone and the subject property is within the Agricultural zone; as such, the applicants are permitted to operate a kennel.

Michelle Szabo expressed concern regarding the reduction of the setback to adjacent dwellings, clarifying that she and her family live in the respective dwelling.

Zack Szabo expressed concern that the future development of their property would be negatively impacted by an abutting dog kennel as they would not be able to develop closer to that side of their property.

The Chair stated that the minimum distance separation would still apply if the applicants moved the kennel to the required setback, adding that he sees little difference between a kennel operating at the required setback versus a few metres closer.

Member Bruno and Member Beauregard agreed that they did not believe a 17m difference in the setback requirement would address most of the concerns raised by the neighbours.

Member Beauregard noted that the 17m difference could reduce the concerns raised about noise, then asked Mr. Roome what noise mitigation measures could be implemented to protect both the applicants' and their neighbours' interests.

Mr. Roome stated that fencing is considered a noise mitigation measure and reiterated the applicants' intention to keep the dogs indoors at night to remain in compliance with the City of Port Colborne Noise By-law 4588/119/04, as amended.

Member Beauregard asked Mr. Roome whether the Building Department had commented on this application.

Mr. Roome responded that the Building Department had not provided comments, as no new buildings are proposed to be built.

Member Beauregard asked whether the Building Department has any additional requirements due to the proposed change in use of the building.

Mr. Roome clarified that the Building Department was not circulated on the application and thus have provided no additional requirements.

Member Beauregard asked the applicants how many dogs they intend to train and house within the proposed kennel at any given time.

The applicants stated that approximately thirty dogs will be trained on the property and will stay in the proposed kennel.

Member Beauregard asked if there is a limit to the number of dogs permitted to be at the kennel at any given time.

The Secretary-Treasurer stated that the City of Port Colborne licenses kennels, adding that staff can follow up with the Licensing Clerk regarding the kennel licensing requirements.

Member Bruno asked whether a condition could be added to the variance to require that the Building Department inspect the structure for compliance with the Building Code.

Mr. Roome stated that enforcing such a condition would be difficult, as the applicants have not been issued a building permit and have thus not paid for a Building Inspector to visit the property, adding that he believed the kennel licensing requirements would suffice.

The Chair asked if the minimum distance separation (MDS) setback calculation changes based on the size of the building.

Mr. Roome stated that MDS setbacks are calculated using a formula established by the Ministry of Agriculture, Food and Rural Affairs (OMAFRA) and are thus not included in the current zoning by-law, Zoning By-law 6575/30/18; however, the 160-meter setback for a kennel is included in the zoning by-law because such a setback is not subject to the MDS calculation requirements set by OMAFRA.

Member Beauregard asked Mr. Roome to reiterate how noise levels will be reduced to eliminate nuisances for neighbours.

Mr. Roome stated that boarding the dogs indoor at night, in addition to the wooden fence, can contribute to noise reduction but will likely not eliminate all noises entirely.

Member Beauregard stated that while he understands the property may not currently provide sufficient noise mitigation, he also recognizes that expanding the existing structure away from the abutting property may cause the applicants undue hardship.

The applicants stated that if their business continues to grow, they intend on moving the kennel operation closer to the middle of their property by constructing a larger facility, but they need a place to start.

Member Desmarais raised the importance of the kennel licensing requirements, asking the applicants whether they have followed the licensing checklist and have consulted with the Licensing Clerk.

The applicants stated that they have followed the kennel licensing requirements checklist provided by the Licensing Clerk.

The Chair presented the sketch of 2710 Brookfield Road and asked the applicants to clarify where the dogs will be kept while outside of the main kennel building.

The applicants stated the dogs will remain within the fenced-in area between the kennel and the berm.

The Chair asked the applicants about the height of the berm indicated on the sketch of the property.

The applicants stated that while they are unsure of the exact height, but the berm is taller than the buildings and has evergreen trees at the top.

The Chair noted that the height of this berm would assist as a noise barrier from the kennel unit.

No further comments or questions from members of the public and Committee of Adjustment.

That minor variance application A10-23-PC be **granted** for the following reasons:

1. **The application is minor in nature** as the decreased setback from a municipal drain would allow the existing structure, which was constructed before the zoning by-law provisions were in effect, to be brought into conformity with the by-law, and the decreased setback to an existing structure is minor and measures will be taken to mitigate noise concerns.
2. **It is appropriate for the development of the site** as the variances are being requested to accommodate a permitted use on the subject property and are required to convert an existing structure into a dog kennel.
3. **It is desirable and in compliance with the general intent and purpose of the Zoning By-Law** as the noise mitigation measures will preserve the intent and purpose of the required setback of the kennel from the dwelling, and the setback to a municipal drain intends to ensure that structures are set back far enough from the drain for maintenance, while the Drainage Superintendent has confirmed that all maintenance work on the drain is done on the south side of the drain and thus the proposal will not impact future maintenance.

4. **It is desirable and in compliance with the general intent and purpose of the Official Plan** as dog kennels are permitted in the Agricultural designation established in the Official Plan.

Moved By Councillor G. Bruno

Seconded By A. Desmarais

Carried.

6. Other Business

The Chair noted that the Ontario Association of Committees of Adjustment & Consent Authorities (OACA) is hosting its annual Spring Conference from June 4 to 7 in Niagara Falls, Ontario. The Committee proceeded to discuss funding for visitor packages to attend the conference.

7. Approval of Minutes

7.1 Committee of Adjustment Hearing Minutes - April 12, 2023

That the minutes from the April 12, 2023, Committee of Adjustment meeting be approved.

Moved By Councillor G. Bruno

Seconded By Councillor E. Beauregard

Carried.

8. Adjournment

There being no further business, the meeting was adjourned at approximately 6:43 pm.