

City of Port Colborne
Committee of Adjustment Meeting Minutes

Date: Wednesday, March 8, 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
D. O'Hara

Member(s) Absent: A. Desmarais

Staff Present: D. Vasu, Planning Tech, Secretary Treasurer
C. Roome, Planner

1. Call to Order

The meeting was called to order by Chair, Dan O'Hara, at approximately 6:00pm.

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

5.2 Application: A04-23-PC

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

Mr. Chair asked the applicant present at the meeting, Mr. Peter Karastamatis, if he wished to defer or withdraw the application, or if he had any further information to add.

Mr. Karastamatis gave an overview of the application, stating that they wish to match the garage height to the height of the main dwelling, and invited questions.

Member Bruno noted that there is a storage container currently situated on the property, then asked if the garage would be constructed in place of the storage container.

Mr. Karastamatis stated that the garage would be set back much further in the yard, approximately halfway towards the back of the lot, adding that the existing container acts as temporary storage.

Member Beauregard asked Mr. Karastamatis whether he had read the Region's comments regarding the existing septic system, noting that their comments state the upstairs of the new structure would not be habitable. Mr. Karastamatis confirmed he was aware of the Region's comments.

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

Moved By Councillor G. Bruno

Seconded By Councillor E. Beauregard

That minor variance application A04-23-PC be granted for the following reasons:

1. The application is minor in nature as the increased height will allow the structure to remain accessory and the structure is located at a reasonable distance from all lot lines, ensuring there will not be a negative impact on the subject nor neighbouring parcels.
2. It is appropriate for the development of the site as the proposed structure is suitably located on the site, in the rear yard and set far enough back from the front property line to minimize the visual impact from the road. The proposal is compatible with most of the requirements of the zoning by-law, and thus the proposal is desirable and appropriate.
3. It is desirable and in compliance with the general intent and purpose of the Zoning By-Law as accessory structures are permitted in the R1 zone, the proposal meets the setback and lot coverage requirements, and the structure will remain accessory to the primary dwelling.

4. It is desirable and in compliance with the general intent and purpose of the Official Plan as the Official Plan permits accessory structures in the Urban Residential designation.

Carried

5.3 Application: A05-23-PC

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

The Chair asked the agent present at the meeting, Ms. Brianna Bodorkos if she wished to defer or withdraw the application, or if she had any further information to add.

Ms. Bodorkos confirmed she neither wished to defer nor withdraw the applications, and that she had no further information to add.

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

Moved By Councillor D. Elliott

Seconded By Councillor E. Beauregard

That minor variance application A05-23-PC be granted for the following reasons:

1. The application is minor in nature as the decrease in the side and rear yard setbacks are being requested to enclose, and thereby improve, an existing garbage storage area which will remain in the same location.
2. It is appropriate for the development of the site as the development is in a suitable location on the site and will reduce the unsightly visual of the existing garbage storage area, along with the odors and foraging animals.
3. It is desirable and in compliance with the general intent and purpose of the Zoning By-Law as the proposed addition will be used in conjunction with the existing commercial use, which the Zoning By-law permits in the CP zone, and the proposal meets the majority of the zoning requirements.
4. It is desirable and in compliance with the general intent and purpose of the Official Plan as the Official Plan permits commercial uses in the Commercial Plaza designation.

Carried

5.4 Application: A06-23-PC

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

The Chair asked the applicant present at the meeting, Mr. Chris DiLalla, if he wished to defer or withdraw the applications, or if he had any further information to add.

Mr. DiLalla confirmed he neither wished to defer nor withdraw the applications, and that he had no further information to add.

Member Beauregard asked how many units would be in this building, should the application be approved.

Mr. DiLalla stated that there would be a total of six residential units in the building.

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

Moved By Councillor D. Elliott
Seconded By Councillor G. Bruno

That minor variance application A06-23-PC be granted for the following reasons:

1. The application is minor in nature as the reduction in minimum floor area does not represent a significant decrease in liveable space; the proposed bachelor-style units are generally smaller in nature and will still provide enough liveable space for future tenants.
2. It is appropriate for the development of the site as the application proposes 4 additional units, for a total of 6 residential units, which will provide increased housing options in the area and classify the dwelling as an apartment, a use permitted in the DC zone.
3. It is desirable and in compliance with the general intent and purpose of the Zoning By-Law as the Zoning By-law permits apartments in the DC zone, the proposal meets most of the zoning requirements except the requested variance, and the applicant has provided 9 parking spaces where 8 are required.
4. It is desirable and in compliance with the general intent and purpose of the Official Plan as the Official Plan encourages downtown developments to be mixed-use, and the preferred built form for mixed-use development

being commercial and office uses on the ground floor, with residential units located above, is only a preference and not a requirement of the Official Plan.

Carried

5.5 Application: B03-23-PC, B04-23-PC, A07-23-PC, & A08-23-PC

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

The Chair asked the agent present at the meeting, Mr. John Ikola, if he wished to defer or withdraw the applications, or if he had any further information to add.

Mr. Ikola confirmed he neither wished to defer nor withdraw the applications, and that he had no further information to add.

The Chair asked roughly how long ago the other lot was created, given that the house crosses the property line.

Mr. Ikola stated that the property had been there for a considerable amount of time, perhaps decades.

The Chair stated that it seemed odd to have a house across the property line and if the house was there first, questioned why the lot would have been severed in a way that was across the property line.

Mr. Ikola stated that it is not uncommon to see strange severance, especially regarding older properties.

Member Beauregard asked if the applicant had confirmation on the exact location of the sanitary.

Mr. Ikola stated that the sanitary was located underneath where the easement will be placed.

Member Beauregard asked for confirmation that a private utility company had visited the property to locate the sanitary services.

Mr. Ikola confirmed that the sanitary services had been located.

The Chair asked for clarification regarding whether the municipal address of the two consent applications should be 19 or 21 Dolphin Street.

Mr. Roome confirmed that both consent applications are located at 21 Dolphin Street.

The Chair requested that the notices of decision for both applications indicate 21 Dolphin Street.

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

Moved By Councillor E. Beauregard
Seconded By Councillor G. Bruno

That minor variance application A07-23-PC be granted for the following reasons:

1. The application is minor in nature as the decrease in lot area is required to address the lot boundary adjustment and the reduction will not fundamentally change the character of the property. The property will still retain a rear yard for amenity space as well as the required parking area for a detached dwelling.
2. It is appropriate for the development of the site as the reduction in lot area is required to facilitate the proposed lot boundary adjustment, under application B04-23-PC, which will address the encroaching dwelling of 19 Dolphin Street.
3. It is desirable and in compliance with the general intent and purpose of the Zoning By-Law as both properties will retain a full rear yard for amenities and parking space at the side of both dwellings.
4. It is desirable and in compliance with the general intent and purpose of the Official Plan as the Official Plan permits residential uses and boundary adjustments in the Highway Commercial designation.

That minor variance application A08-23-PC be granted for the following reasons:

1. The application is minor in nature as the decreased side yard setback is necessary to ensure that the driveway of 19 Dolphin Street is entirely contained within the property boundaries.
2. It is appropriate for the development of the site as the application serves to address a lot line dispute and ensure that each dwelling is entirely located within its boundaries.
3. It is desirable and in compliance with the general intent and purpose of the Zoning By-Law as the dwellings are located at a suitable distance from one another and there are no proposed changes nor any drainage concerns.

4. It is desirable and in compliance with the general intent and purpose of the Official Plan as the Official Plan permits residential uses and boundary adjustments in the Highway Commercial designation.

That consent application B03-23-PC be granted subject to the following conditions:

1. That the applicant provides the Secretary-Treasurer with the deeds in triplicate for the conveyance of the subject parcel or a registrable legal description of the subject parcel, together with a paper copy and electronic copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.
2. That a final certification fee of \$231 payable to the City of Port Colborne is submitted to the Secretary-Treasurer.
3. That minor variance applications A07-23-PC and A08-23-PC be granted.
4. That consent application B04-23-PC be granted; and
5. That all conditions of consent be completed by March 8th, 2025.

For the following reasons:

1. The application is consistent with the Provincial Policy Statement and conforms to the Growth Plan for the Greater Golden Horseshoe, the Regional Official Plan, City of Port Colborne Official Plan, and will also comply with the provisions of Zoning By-law 6575/30/18, as amended.

That consent application B04-23-PC be granted subject to the following conditions:

1. That the applicant provides the Secretary-Treasurer with the deeds in triplicate for the conveyance of the subject parcel or a registrable legal description of the subject parcel, together with a paper copy and electronic copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.
2. That a final certification fee of \$231 payable to the City of Port Colborne is submitted to the Secretary-Treasurer.
3. That Part 1 merges with Part 4.
4. That minor variance applications A07-23-PC and A08-23-PC be granted.

5. That consent application B03-23-PC be granted. 6. That all conditions of consent be completed by March 8th, 2025.

For the following reasons:

1. The application is consistent with the Provincial Policy Statement and conforms to the Growth Plan for the Greater Golden Horseshoe, the Regional Official Plan, City of Port Colborne Official Plan, and will also comply with the provisions of Zoning By-law 6575/30/18, as amended.

Carried

6. Other Business

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The Chair requested clarification regarding whether the terms of reference provided in the agenda package was the final version of the document.

The Clerk stated that an amended version of the terms of reference was provided to the Committee by email.

The Chair requested that a physical copy of the amended terms of reference be provided, then stated that most of the amendments appear to be aimed at ensuring conformity with the Planning Act ("the Act").

Member Beauregard stated that the proposed term expiration in the terms of reference would mean the Committee of Adjustment term expires at the same time as the Council term but noted that the Act states that Committee Members are to be appointed annually, not every four years as with Council Members.

The Clerk suggested that section 4.1 may be added to section 7 to clarify that Members of Council must be appointed annually.

The Chair expressed that the time frame to reappoint Committee Members is short, and the Act was amended to address this issue, adding that the timeline for reappointment after a new term of Council begins may lead to applications not being heard in accordance with the deadlines included in the Act.

The Clerk responded that until a successor is appointed, a Committee Member would be allowed to remain to remain on the Committee.

The Chair asked for clarification regarding whether Councillors would be permitted to remain on the Committee after the expiration of their term as Councillor.

The Clerk confirmed that a Councillor in that situation would be permitted to remain on the Committee as a Committee Member who is not also a Councillor.

Member Beauregard suggested that the Committee of Adjustment have its own procedural by-law, as other municipalities do, to allow the Committee to adopt its own procedures.

The Deputy Clerk stated that some other municipalities provide a guiding document to the Committee during Committee of Adjustment training sessions, and that such a document is being prepared by the Clerks and Planning Division but would not be formally adopted by Council, as with a procedural by-law, to improve the amendment process.

The Chair agreed that a guiding document would be more efficient than a formal procedural by-law and inquired about the potential conflict of Committee make-up.

The Clerk clarified that section 4.2 was amended to state that the Committee must include at least two members of the public.

Member Beauregard suggested that including a provision which would allow a Councillor to be the Vice Chair of the Committee may provide additional flexibility in the composition of the Committee in case not enough applications from members of the public are received.

The Clerk noted that upon researching the Committee of Adjustment terms of reference in other municipalities, the best practice would be to have the Chair and Vice Chair be members of the public and ideally, more members of the public than Councillors.

Member Elliott stated that the number of Members is not prescribed in the proposed terms of reference, thus Council would be able to appoint more than the five Members the Committee currently has.

The Chair added that the Act mandates at least three Members must sit on the Committee to achieve quorum but does not prescribe a maximum.

Mr. Roome stated that other municipalities incorporate flexible Membership models, as in Fort Erie where nine Members rotate monthly

to hear applications, then confirmed that the Act does not prescribe a maximum amount of Committee Members.

The Deputy Clerk added that the proposed terms of reference was designed to accommodate changes in Committee composition.

Member Elliott stated that while he understands the importance of including members of the public on the Committee of Adjustment, he also believes that Councillors should not be precluded from Membership because the Committee of Adjustment is bound to make decisions on applications pursuant to the Act, not based on their personal opinions.

Member Bruno stated that he understands that a Councillor may make biased decisions on applications from members of the public in their ward, but that ultimately Members should be selected based on merit.

Member Beauregard stated that, as Councillors are tasked with making decisions on larger applications in accordance with the Act and are thereby already familiar with the Act, he would not take issue with the Vice Chair of the Committee being a Councillor.

The Chair requested that the terms of reference be amended to state that the Chair or Vice Chair of the Committee of Adjustment may be a Councillor.

Member Bruno supported the amendment and added that, without the amendment, if both the Chair and Vice Chair were members of the public and if both were absent at a hearing, a Councillor would have to act as Chair for quorum to be achieved.

The Deputy Clerk stated that this amendment could be made, though because the amendment would propose to change the composition of the Committee, the terms of reference would need to be reviewed again by the Clerks and Planning Divisions before being approved by both Council and the Committee.

Member Bruno supported the proposed amendment to the terms of reference.

The Clerk noted that the amendment would also amend section 4.2 to state that only one member of the public is required to be on the Committee.

Moved By Councillor G. Bruno

Seconded By Councillor D. Elliott

That the terms of reference be accepted and amended to state that Members of Council may act as Chair or Vice Chair of the Committee of Adjustment.

Carried

7. Approval of Minutes

7.1 Committee of Adjustment Minutes-January 18, 2023

8. Adjournment

There being no further business, the hearing was adjourned at approximately 7:21 p.m.