



PORT COLBORNE

**City of Port Colborne
Committee of Adjustment Meeting Agenda**

Date: Wednesday, April 24, 2024
Time: 6:00 pm
Location: Council Chambers, 3rd Floor, City Hall
66 Charlotte Street, Port Colborne

Pages

1. Call to Order
2. Adoption of Agenda
3. Disclosures of Interest
4. Order of Business
 - 4.1 B05-24-PC, A02-24-PC and A03-24-PC - VL Firelane 3
 - a. Addendum to B05-24-PC Planning Report 1
 - b. Applicant Comments 13
 - c. John Drury Comment 17
 - d. Corrected A02-24-PC Application 19
5. New Business
6. Adjournment



City of Port Colborne

Municipal Offices
66 Charlotte Street
Port Colborne, Ontario
L3K 3C8
www.portcolborne.ca

Planning and Legislative Services

Planning Division Report Addendum

April 19, 2024

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

**Re: Application for Consent B05-24-PC
VL Firelane 3
Lots 31 to 33 and Lots 57 to 59 Plan 799
Agent: N/A
Owner(s): Peter Smith and Donna Bonato**

RE: Addendum to Planning Division Report for the subject lands dated April 9, 2024.

At the April 10, 2024 Committee of Adjustment hearing, the Committee of Adjustment adjourned the subject application requesting the following additional information from Staff:

- a) A legal opinion on whether the lots have been formally merged;
- b) An analysis of Section 3.4 of the Official Plan; and
- c) An analysis of the criteria under Section 51 (24) of the Planning Act

Legal Opinion on the Status of Lots

Staff have obtained a legal opinion which states that the parcels on the subject land have not merged and are within a plan of subdivision. As such, it is more appropriate for this application to be considered a boundary adjustment, rather than the creation of a new lot as multiple lots already exist on the subject lands. Staff notes that a boundary adjustment is not considered '*development*' under the definition in the Official Plan.

Official Plan Conformity

The subject lands are designated Rural. Below is an analysis of the Rural policies under Section 3.4 of the Official Plan.

3.4.1 General Policies

- a) *Municipal sanitary services and municipal water services will not be provided in the Rural area. All new buildings for human use or habitation shall be located on lots suitable to support a private well and sewage disposal system to the satisfaction of the appropriate agency and may require a hydrogeological study.*
- b) *Lands designated Rural are subject to the Policies for Agricultural uses described in Section 3.5.1.*
- c) *Development which may now or in the future require municipal water services or municipal sanitary services shall not be permitted.*
- d) *A limited volume of growth outside the urban area boundary and hamlet areas shall be permitted in site-specific locations with approved zoning or designation that permits this type of development in accordance with the policies of the Places to Grow Plan.*
- e) *All proposed development shall comply with the Province's Minimum Distance Separation formula and Nutrient Management Plan requirements.*
- f) *In the Rural Area, locally important agricultural and resource areas, including the Aggregate Potential Area delineated on Schedule C ,should be protected by avoiding uses that may constrain these uses.*
- g) *Trailer camps, mobile home parks and other such activities are not permitted.*
- h) *Any new or expanding Commercial or Industrial development as identified in Section 3.4 is subject to Site Plan Control.*

The general policies listed under Section 3.4.1 a) have been addressed as private services are proposed and a hydrogeological assessment has been submitted that confirms the lots are suitable for a private sewage system. Policies b, c, d, e, f, g, and h are not applicable to this application. As the application does not constitute development, no MDS calculation is required. Additionally, the lands are not within range of an active livestock facility.

3.4.2 Intensification and Infill

Intensification may occur on lands designated Rural in accordance with the provisions of Section 2.4.3 as well as the following:

a) New Residential development created through severance shall only be for the purpose of creating up to three (3) lots between two (2) existing residential buildings such that:

- i. The new lots can be adequately serviced by individual sanitary services and individual water services;*
- ii. The size of each lot is a minimum of one (1) hectare, excluding flood plain areas, fish habitat or other Natural Heritage features;*
- iii. Each new lot complies with the requirements of the Zoning By-law as in force and effect at the day of approval of this Plan; and*
- iv. Each new lot complies with the Minimum Distance Separation Formulae, as required.*

As previously mentioned, the application does not constitute development as no new lots are being created. As such Sections 3.4.2 a) ii), iii), and iv) do not apply. While Section 3.4.2 a) i) also refers to new lots, and technically does not need to be applied to the application, Staff are satisfied that both parcels can be serviced by private sanitary and water services, subject to the recommendations of the Hydrogeological Assessment being fulfilled.

Section 2.4.3 of the Official Plan speaks to intensification and infill, however as this application does not constitute the creation of a lot, Staff do not consider the proposal to be infill.

3.4.3 Design Guidelines

3.4.3.1 General

- a) Development in Rural areas should be consistent with the placement and rural character of the existing built form.*
- b) Community facilities and institutional uses should place parking areas to the side or rear of the building and screen them from view.*
- c) The construction of public utilities will be in keeping with the character of adjacent dwellings and landscape features.*
- d) Green building technologies will be encouraged, including reference to Leadership in Energy and Environmental Design (LEED) as promoted by the Canada Green Building Council.*

3.4.3.2 Residential

- a) *Orient to streets and open space wherever possible*
- b) *Provide front porches or covered entrances*
- c) *Not have garages that occupy more than 50% of the main building wall*
- d) *Incorporate the planting of mature trees and shrubs*
- e) *Use landscaping features to clearly define driveway entrances; and*
- f) *Where proximate to the Lake Erie shoreline, have architectural treatment and landscaping that is compatible with the natural setting of the Lake Erie shoreline*

As no structures are proposed at this time, Staff cannot comment on the design, however the applicant should be aware of these policies when a building permit is submitted.

3.4.4 Consents to Sever

It is the intent of this Plan to preserve and encourage the growth of viable agricultural industries, particularly for farming, forestry and the conservation of plant and wildlife. The severance of lands designated Rural may be permitted subject the following policies:

- a) *Severances for the purpose of a new rural residential dwelling provided:*
 - i. *The proposed lots are designed to retain natural features and vegetation;*
 - ii. *Each new lot shall be approximately 0.4 hectares, unless additional land area is required to support a well and a septic system, and protect surface and ground water features; and,*
 - iii. *For multiple residential development proposals of three lots the minimum lot size shall be 1 hectare unless it is determined through a hydrogeological study that a smaller lot size will adequately support private water and sewage systems and protect surface and ground water features.*
- b) *Severances that are required for reasons other than the creation of a separate lot may be permitted such as for minor boundary adjustments, easements or rights- of-way or any other purpose that does not create a new lot.*
- c) *In addition to the considerations in Section 3.4.4 a), applications for new lots or consents shall meet the following requirements:*

- i. *For agriculture-related uses and other rural uses, the amount and availability of vacant lots of record in the areas outside of the Hamlets of the municipality are considered and the need for the additional lot demonstrated;*
- ii. *The new lot does not contribute to the extension or expansion of strip development;*
- iii. *The new lot is located on an opened and maintained public road;*
- iv. *The feasibility of sustainable private services is demonstrated through appropriate technical studies;*
- v. *The lot is suitable in terms of topography, soils, drainage, erosion, lot size and shape for the use proposed;*
- vi. *Road access to the new lot does not create a traffic hazard because of limited sight lines on corners, or grades, or proximity to intersections; The proposed use will be compatible with surrounding uses;*
- vii. *The proposed use will be compatible with surrounding uses;*
- viii. *The proposed use will not result in development which would preclude or hinder the establishment of new mineral aggregate operations.*
- ix. *The new lot shall meet the minimum distance separation formulae;*
- x. *The new lot for residential purposes, as permitted by Section 3.4.4 must be separated from existing livestock operations by the distance determined by the minimum distance separation formulae; and*
- xi. *For agriculture-related uses and other rural uses, a maximum of three new non-residential lots are created on the property being severed.*

Given that Staff do not consider the application to be development, many of the lot creation policies do not apply such as Sections 3.4.4 a) ii) and iii) and Section 3.4.4 c), as these policies only apply to new lots. Staff still have regard for the smaller sized lots and recognize that, while they do not meet the current requirement under the OP, the two proposed lots are larger than the legally existing six lots. The two larger lots align closer with the OP.

Staff are still of the opinion that the natural heritage features are not negatively impacted by the proposed application. The Significant Woodland is currently fragmented by the existing lot lines between the six existing lots, whereas, should the application be approved, the fragmentation will be limited to two lots which will result in less development potential on the subject lands.

Finally, Section 3.4.4 b) provides for severances that are required for reasons other than the creation of a separate lot may be permitted such as for minor boundary adjustments.

Planning Act Criteria for Giving of Consent

Staff has included the criteria for determining whether a provisional consent is to be given under Section 53 (12) of the Planning Act, which refers to the criteria under Section 51 (24).

(24) In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,

- a) *the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;*
 - The application has regard to the matters of provincial interest under Section 2 of the Act. Staff are confident that ecological features are being protected as the proposal results in less fragmentation of the existing feature.
 - The severed and retained lot will be adequately serviced through the implementation of the recommendations of the Hydrogeological Assessment through a development agreement.
- b) *whether the proposed subdivision is premature or in the public interest;*
 - The proposal is not considered premature as it proposes changes to existing lots.
- c) *whether the plan conforms to the official plan and adjacent plans of subdivision, if any;*
 - The proposal conforms to the policies of the Official Plan as boundary adjustments are permitted under Section 3.4.4 b).
- d) *the suitability of the land for the purposes for which it is to be subdivided;*
 - The lands are currently made up of multiple existing lots. While the applicant has indicated that it may be possible to build on 3 of the lots, it was deemed more practical for them to build on 2. As such, Staff are of the opinion that lands are suitable for this type of application.
- e) *if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;*
 - Not applicable.

- f) *the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;*
- Not applicable
- g) *the dimensions and shapes of the proposed lots;*
- The dimensions and shapes have been addressed through the minor variance applications, which staff have no concerns with. It has been determined that the size of the lots is consistent with the neighborhood and can support private services.
- h) *the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;*
- There are currently no restrictions affecting the subject land. Staff have included several conditions that the applicant will need to address prior to a certificate being issued. These conditions will address servicing for the dwelling and the formal merging of the existing lots.
- i) *conservation of natural resources and flood control;*
- Staff recognize that the subject lands are impacted by a natural heritage feature, however, the proposed application will result in less fragmentation and will result in less development potential in the future. A grading plan will be required at the time of the building permit to ensure that the lands drain appropriately.
- j) *the adequacy of utilities and municipal services;*
- There are no municipal services affecting this area, the lots will be serviced privately and it has been demonstrated through a hydrogeological study that the lots are of sufficient size to accommodate septic systems.
- k) *the adequacy of school sites;*
- No new lots are being created, as such, this criteria is not applicable.
- l) *the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;*
- Not applicable.
- m) *the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and*
- Not applicable.
- n) *the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act or subsection 114 (2) of the City of Toronto Act, 2006. 1994, c. 23, s. 30; 2001, c. 32, s. 31 (2); 2006, c. 23, s. 22 (3, 4); 2016, c. 25, Sched. 4, s. 8 (2).*

- Not applicable.

Additional Information

Staff have provided an updated zoning analysis with regard to the Environmental Conservation layer below.

The subject property is partially impacted by an Environmental Conservation Layer, which is comprised of a Significant Woodland. Section 36.3 a) of the Zoning By-law States:

- a) *Notwithstanding the permitted uses in the applicable underlying zones shown on the Maps in Section 39, where a lot is also subject to an Environmental Conservation Layer, no uses and no building or structure or an expansion to an existing building or structure shall be permitted until an Environmental Impact Study (EIS), in accordance with the City, Regional Municipality of Niagara or Niagara Peninsula Conservation Authority, as amended from time to time, and other studies that may be required by the City based on approved guidelines or terms of reference are approved. The requirement for an EIS may be scoped or waived in accordance with the EIS guidelines. The uses permitted in Section 36.2 may be permitted subject to a scoped EIS in accordance with the EIS guidelines.*

The EC layer is an overlay on top of the existing LR Zoning and the permitted uses of the LR zone are applicable, subject to meeting the EIS criteria. Staff have reviewed the Environmental Impact Study criteria in the Official Plan, as well as the Region's EIS guidelines and have concluded that an EIS is not required for this application for the following reasons.

Section 4.1.2.2 b) ix) a) of the Official Plan states:

- ix. *The required scope and/or content of an EIS may be reduced in consultation with the appropriate agencies where;*
 - a) *The environmental impacts of the development are thought to be limited*

Planning Staff are satisfied that the proposed application does not constitute development, and the boundary adjustment is considered to be minor as it is consolidating six lots into two. There are currently three existing lots that have frontage on Firelane 3 that could be developed, should this application not be approved, and Staff view this application as a means of providing less development potential on the subject lands in the future.

The Regions criteria for waiving an EIS provides for the following:

During the initial screening, it shall be determined that a proposed development is eligible for waiving if it meets all of the following conditions:

- Proposed development is located outside of natural heritage and hydrologic features, unless the proposed development is an existing lot of record in a woodland;*
- Proposed development is considered small-scale non-agricultural development or small/medium-scale agricultural development (refer to Table 2A and 2B);*
- Proposed development will not significantly alter existing surface water flow direction, quantity or quality; and*
- Proposed development is not located within an NPCA regulated area.*

The subject lands comprise existing lots of record in a woodland and, according to Table 2A, the construction of a house on an existing lot of record is considered small-scale. Any development on the subject lands is required to submit a grading plan at the building permit stage that demonstrates that the construction will not significantly alter existing water flow. Finally, a small portion of the north-west corner of the subject lands is impacted by a buffer to an NPCA regulated feature, however the feature does not exist on the site and the NPCA has provided comments stating that they have no concerns.

Furthermore, the Regions EIS Guidelines state the following;

If the proposed development is eligible for waiving, the requirement to complete an EIS may be waived if the development meets one or more of the following waiving criteria:

- The proposed development is outside the waiving zone required for natural heritage features (refer to Table 3 for waiving zones and Appendix A - Examples A1 and A2 for illustrated examples of this criteria).*
- The proposed development is within the waiving zone, separated from natural heritage feature(s) by a road or existing development (refer to Table 3 and Appendix A -Example B).*
- The proposed development is within the waiving zone and is a re-development wholly contained within an existing footprint, or a re-development with a minor addition³ to the existing footprint which maintains a >15 m buffer from the natural heritage feature, or is a re-development with a major addition to the existing footprint which extends away from the feature (refer to Table 3 and Appendix Example C).*
- The proposed development is within the waiving zone and is a minor addition to an existing structure which maintains a >15 m buffer from the natural heritage feature, or is a major addition to an existing structure which extends away from the feature (refer to Table 3 and Appendix A- Example D).*
- The proposed development area is for a single detached dwelling, amenity area, access, private sewage disposal system, and accessory structure if required within an existing lot of record in a woodland (refer to Appendix A-Example E) .*

The fifth point in the above section states that a single detached dwelling with additional amenities would be permitted on the subject lands without the need for an EIS. This

means that, as the lands exist now, three detached dwellings would be permitted on each lot of record fronting Firelane 3 without the need for an EIS. As such, Staff are of the opinion that an EIS is not required for this application as it will result in less development of the subject lands in the future.

Staff are satisfied that an EIS is not required as this application does not constitute development, results in less development potential of the subject lands and meets the City's and Regions criteria for waiving.

Given the information provided, Staff still support this application and recommend that it be approved under the recommendation attached as Appendix A. Staff have found that the lots have not merged and that the application proposes a consolidation of six existing lots of record into two. This is regarded as a minor boundary adjustment and does not constitute formal development or the creation of a new lot. The application has regard for the natural heritage feature as it will result in less fragmentation and development potential.

Prepared by,



Chris Roome, MCIP, RPP
Planner

Submitted by:



Denise Landry, MCIP, RPP
Chief Planner

Appendix A

Recommendation:

Given the information above, Planning Staff recommends application B05-24-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 \$240 payable to the City of Port Colborne is submitted to the Secretary-Treasurer.
3. That the applicant signs the City of Port Colborne's standard "Memorandum of Understanding" explaining that development charges and cash-in-lieu of the dedication of land for park purposes, based on an appraisal, at the expense of the applicant, wherein the value of the land is to be determined as of the day before the issuance of a building permit, is required prior to the issuance of a building permit pursuant to Section 42 of the Planning Act. R.S.O 1990, as amended.
4. That Lot 33, Part of Lot 32, Lot 57 and Part of Lot 58 be merged in title to create Part 2.
5. That Lot 31, Part of Lot 32, Lot 59 and Part of Lot 58 be merged in title to create Part 1.
6. That the owner enter into a Development Agreement to implement the recommendations of the Hydrogeological Assessment, prepared by Terra-Dynamics Consulting Inc. (dated September 22, 2021)
7. That a Stage 1 and 2 Archaeological Assessments be completed by a licensed professional archaeologist in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists. Required archaeological assessments shall be submitted to the Province for review. No demolition, grading or other soil disturbances shall take place on the property until the Province has verified that the required archaeological assessment report(s) have met licensing and resource conservation requirements.
8. That minor variance applications A02-24-PC and A03-24-PC be approved.
9. That all conditions of consent be completed by April 24th, 2026.

For the following reasons:

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.

To Tanya Taraba

Subject: Committee of Adjustment Meeting

Tanya

I have just rewatched twice last weeks committee of Adjustment Meeting. The reason for this note is I was deeply disturbed by the number of serious factual inaccuracies presented before the Committee of Adjustment. Normally I would have addressed them at the meeting however, I had spent all day at Hamilton General visiting my sister and while waiting for the meeting to start, was informed by text she had passed. I really cannot remember much of the meeting nor was in any shape to present. In hindsight I should have asked for it to be adjourned, but to start clearing trees for the septic, I must start prior to birds beginning to nest.

All that being said, I have known for ten years I owned property with lots already in the city masterplan and I have an excellent understanding of non conforming lots.

I want to be assured that the members of the Committee of Adjustment have knowledge of and understanding of the following:

The [Planning Act of Ontario](#) legislates that changes in municipal zoning bylaws cannot be applied **retroactively**. Instead, if the property was legal under the previous zoning, it will now be deemed 'legal non-complying' or 'legal non-conforming' and be allowed to carry on.

In essence, grandfather property rights allow owners and tenants to operate under the previous set of laws and regulations.

Legal nonconforming rights are one of the most powerful protections afforded to landowners under land use planning law. The concept provides that, simply put, zoning by-laws cannot apply retroactively. If a use of land, a building, or a structure was legal on Monday, a zoning by-law passed that day cannot render it illegal by Tuesday.

The concept is codified in s. 34(9) of the *Planning Act*, which explicitly provides that a zoning by-law cannot prohibit the use of land, a building, or a structure that was lawfully commenced on the date the by-law was passed. Under the common law, the protections for legally nonconforming rights are even stronger. A series of decisions dating back to the 1950s, including from the Supreme Court, have established that owners also have a right to evolve or reasonably expand or intensify a legally nonconforming use, provided that the evolution, expansion, or intensification does not cause undue adverse impacts on the surrounding neighbourhood or area.

For clarification, "legally" and "lawfully" has nothing to do with building permits. It is simply a measurement of whether the use was allowed by zoning bylaws. Indeed, if a structure predates zoning bylaws on the property, then it is permitted to continue.

Despite their importance to landowners, the full scope of legal nonconforming rights is often not well understood, either by the property owners that benefit from them, their lawyers, land-use planners, or the municipal decision-makers that must respect them. Legal nonconforming rights are also a frequent source of tension between landowners and municipalities. Too often, municipal decision-makers intentionally seek to curtail property owners' legally nonconforming rights, viewing those rights as mere impediments to municipal policy, rather than important and established legal protections. It is a truism that "planners like to plan".

To refuse the application, the undue adverse impacts of the proposed expansion must be demonstrated by objective evidence and must be sufficient to override the property owner's right to reasonable flexibility, evolution, and expansion. I have approval from our own planning department and the blessing of Phil Lambert Director Infrastructure Planning and Development Engineering at the Regional Municipality Of Niagara. Both of which I am sure understand 'legal non-complying' or 'legal non-conforming'.

The planning department was obligated to ask for a minor variance for this application, In essence this committee of adjustment must adhere to the Ontario Planning Act and has no option other than approve the application.

There was absolutely no objective evidence presented to disallow my application. Furthermore, I not only have an approved septic application for two lots but have another approved design for three existing lots which if I applied for building permit would require no public consultation. There is already one 50' lot with a newer home on the laneway.

I am more upset with neighbour's who feel they get to decide what is built on the Firelane. The comment if he wants a smaller home, he should buy land in the city was ridiculously elitist. I can only assume that the reason Mr. Simo's house footprint was approved because it was considered a nonconforming lot. His home takes up over 60% of the lot. It is outrageously out of place; I also have photographic proof that more than just one tree was taken down as per his presentation.

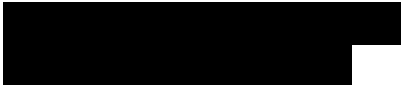
Can I be assured that the planning department will publicly correct all inaccuracies which were presented.

I am truly sorry that I must bring this to your attention, however to me this is no longer about the application, it is about my neighbour's elitist belief that they are the ones who decide what other people do with there land.

I wonder if I can build a tiny home community.

Thankyou Taya, please get back to me regarding how the public inaccuracies will be dealt with.

Peter



April 11, 2024

Taya Taraba
Taya.Taraba@portcolborne.ca
City of Port Colborne
66 Charlotte Street
Port Colborne, Ontario L3K 3C8

Re: Application of Peter Smith: File No. A 03-24-PC

Dear Ms. Taraba:

I am a part owner (2/7 share) of a family house at 2547 Firelane 3 in Port Colborne (Tax Roll 00075582). The Drury Family has owned the property since 1955 (contract for purchase and sale signed in December, 1954). I spend a minimum of approximately 30 days a year and I handle all the finances for our house.

I have known Peter Smith and his wife for approximately 10 years as owners of the adjoining property which they sold 2 years ago. He was a fine neighbor who improved and diligently cared for his beachfront property.

I am familiar with the application and attended via Zoom the Adjustment Board hearing of April 10, 2024. I did not speak but two of my siblings did.

I support the application for a variance as these variances have been recently granted to other new property owners in the neighborhood and no reason justifies discrimination against Peter Smith's application. I am familiar with the land and the lots in question on Firelane 3, and from what has been presented of record, his home will be considerably smaller than existing and recently built homes. Development must come to Firelane 3 and Peter Smith appreciates the rural ambiance of this infrequently traveled, unpaved back road and will respect the neighborhood.

I ask that you recognize my support for the application I express herein. Thank you for your attention to this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "John E. Drury". The signature is written in a cursive style with a large, prominent initial "J".

John E. Drury



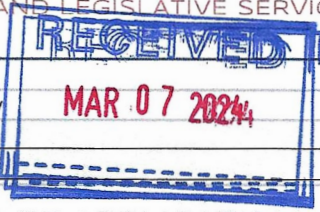
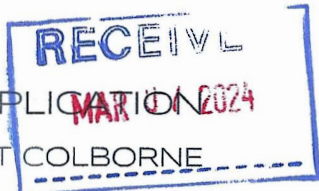
PORT COLBORNE

DEVELOPMENT AND LEGISLATIVE SERVICES

MINOR VARIANCE APPLICATION

THE CITY OF PORT COLBORNE

The Planning Act - Section 45



For Office Use Only		
Date Received:		Application Complete: <input type="checkbox"/> Yes <input type="checkbox"/> No
Date of Completion:		

SUBMISSION OF APPLICATION

Completed applications can be sent to:

City of Port Colborne
 Taya Taraba
 Secretary Treasurer of the Committee of Adjustment
 City Hall
 66 Charlotte Street
 Port Colborne, Ontario L3K 3C8

Telephone: 1-905-835-2900 ext. 204
 Fax: 1-905-835-2939
 Email: taya.taraba@portcolborne.ca

2023 APPLICATION FEES

Minor Variance	\$1,383
Minor Variance (Building without a Permit)	\$1,805
Minor Variance & Consent Combination	\$2,528

COMPLETENESS OF APPLICATION

A complete application includes all required forms, fees, and applicable sketches, as well as any additional information that may be identified by the Secretary-Treasurer in accordance with the provisions under *the Planning Act, R.S.O. 1990, c.P. 13*, as amended.

To be considered complete, submitted applications must include:

- One fully completed application for minor variance or permission signed by the applicant(s) and/or authorized agent and properly witnessed by a Commissioner for the taking of affidavits.
- A letter of authorization from the property owner, if applicable.
- **Two (2) copies** of a completed preliminary drawing (see the "Drawing Requirements" section).
- Payment of the appropriate fee submitted at the time of application through cash, credit, debit, or cheque payable to the City of Port Colborne.
- Payment of the appropriate Regional Review & Approval fee(s) if required by the Region, submitted at the time of the preliminary review. Payment can be submitted to the City of Port Colborne or to the Niagara Region. If payment is submitted to the Region directly, please submit the receipt to the City of Port Colborne. Failure to pay the Region's fee may result in an incomplete application. The Region's fees are available on its website, https://www.niagararegion.ca/business/fpr/forms_fees.aspx
- Payment of the appropriate NPCA fee, if required, submitted at the time of the preliminary review. Payment can be submitted to the City of Port Colborne or to the NPCA. If payment is submitted to the NPCA directly, please submit the receipt to the City of Port Colborne. Failure to pay the NPCA's fee may result in an incomplete application.

***Note: Additional information may be required once a full review has been completed by planning staff. This may prevent deferral of your application. ***

DRAWING REQUIREMENTS

Please submit two copies of each separate plan along with your completed application. Ensure that all the information below is included in the plan(s). Depending on the extent of the proposal, **the Planning Division may request a sketch prepared by a professional, and the Committee may require (at the discretion of the Manager of Planning Services) that the sketch be signed by an Ontario Land Surveyor.** This requirement can be clarified by the Planning Staff. The required sketch should be based on an actual survey by an Ontario Land Surveyor or drawn to a usable metric scale [e.g., 1:100, 1:300, 1:500].

To be considered **complete**, each sketch must identify:

1. The boundaries and dimensions of the land / lot.
2. The location and nature of any easement affecting the land, if applicable.
3. The location, size, height, and type of all existing and proposed buildings and structures on the land, indicating the distance of the buildings or structures from the front lot line, rear lot line and the side lot lines.
4. The parking areas, loading spaces, driveway entrance / exits.

PROCEDURES FOR PROCESSING APPLICATIONS FOR MINOR VARIANCE OR PERMISSION

Once the Secretary-Treasurer has received an application, the application will be circulated to external agencies for up to 10 days to determine whether additional information and/or fees are required. Once comments from these agencies have been received, the Secretary-Treasurer will inform the applicant of any additional information and/or fees required by these agencies (ie. Niagara Region, Niagara Peninsula Conservation Authority). If applicable, the applicant must submit this additional information and/or pay the additional fees for their application to be deemed complete. Once the application is deemed complete, a hearing date will be confirmed in writing by the Secretary-Treasurer.

Prior to the hearing, members of the Committee may choose to conduct a site visit and/or contact the applicants. **Please note that the Committee should not be contacted by members of the public.** Any comments, questions, or concerns should be addressed through the Planning Division.

Following the hearing, the applicant/agent/solicitor will be notified of the Committee's decision in a written Notice of Decision. In addition, any other person or agency who filed a written request for the Committee's decision will be sent a copy. Any applicant objecting to the decision of the Committee, or the condition(s) imposed by the Committee may appeal the decision to the Local Planning Appeal Tribunal within 20 days after the Notice of Decision has been given. The notice of appeal, together with written reasons supporting the appeal and the fee, by certified cheque or money order payable to the Minister of Finance, must be filed with the Secretary-Treasurer, who in turn, will forward the appeal to the Local Planning Appeal Tribunal. The fee is \$300.00 for the first application to be appealed and \$25.00 for each additional related minor variance appeal.

NIAGARA PENINSULA CONSERVATION AUTHORITY REVIEW

Fees which are payable directly to Authority vary depending on the location and on the type of application. For land: abutting or within 15 meters of a water course; on or within 30 meters of the Lake Erie shoreline; on land identified as "Hazard Land" or "Environmental Protection" by the Port Colborne Official Plan or Zoning Bylaw; or within a groundwater recharge / discharge area, aquifer, or headwater on the property or within 30 meters of the property, the Niagara Peninsula Conservation Authority will charge an additional Plan Review Fee. These fees are provided on the Niagara Peninsula Conservation Authority's website.

I acknowledge that I have read, understand, and agree to the terms outlined above.		
Name: Peter Smith	Date: March 6, 2024	Initials: pws



PORT COLBORNE

DEVELOPMENT AND LEGISLATIVE SERVICES

MINOR VARIANCE APPLICATION

THE CITY OF PORT COLBORNE

The Planning Act – Section 45

SECTION 1 : CONTACT INFORMATION

1.1 Registered Owner (s):	
Name: Peter Smith Donna Bonato	
Mailing Address: 657 King Street	
City: Port Colborne	Province: Ontario ▾
Postal Code: L3K 4H9	Telephone: 905-964-2085
Fax:	Email: pwsmith@protonmail.com
1.2 Owner's SOLICITOR (if applicable)	
Name:	
Mailing Address:	
City:	Province: ▾
Postal Code:	Telephone:
Fax:	Email:
1.3 Owner's Authorized AGENT (if applicable)	
Name:	
Mailing Address:	
City:	Province: ▾
Postal Code:	Telephone:
Fax:	Email:
1.4 Owner's ONTARIO LAND SURVEYOR (if applicable)	
Name: Suda and Maleszyk Inc	
Mailing Address: 126 Main Street	
City: Welland	Province: Ontario ▾
Postal Code:	Telephone: 905-732-7651
Fax:	Email: dcb@cogeco.ca
1.5 All communications should be sent to the:	
<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Solicitor <input type="checkbox"/> Agent	

SECTION 2: LOCATION OF SUBJECT LAND

Former Municipality: Humberstone	
Concession No. 1	Lot(s): 31,32,33,57,58,59,
Registered Plan No. 799	Lot(s):
Reference Plan No.	Part(s):
Name of Street: Firelane 3	Street No.

SECTION 3: SUBJECT LAND DESCRIPTION

Part No. On Sketch:

3.1 Lot Description		
Frontage: 23.42	Depth: 46.7	Area: Approx 1093 square meters
Existing Use: vacant land		
Proposed Use: residential house		
3.2 What is the current designation of the land in the Official Plan and the Regional Plan?		
Port Colborne Official Plan: residential		
Regional Policy Plan: residential		
3.3 What is the current zoning of the land (By-law 6575/30/18)?		
Residential		

SECTION 4: LAND INFORMATION

4.1 Date the Subject Land was acquired by the Current Owner:	
4.2 Are there any existing EASMENTS OR RESTRICTIVE COVENANTS affecting the land?	
<input type="checkbox"/> Yes	If "Yes" describe the easement or covenant and its effect:
<input checked="" type="checkbox"/> No	
4.3 MORTGAGES, Charges & Other Encumbrances:	
List the name(s) and address(es) of any mortgages, charges, or other encumbrances in respect of the land.	
NONE	
4.4 DATE OF CONSTRUCTION of all existing buildings and structures on the land:	
4.5 Type of ACCESS	
<input type="checkbox"/> Provincial Highway	<input type="checkbox"/> Municipal Road maintained seasonally
<input checked="" type="checkbox"/> Regional Road	<input type="checkbox"/> Right-of-Way
<input type="checkbox"/> Municipal Road maintained all year	<input type="checkbox"/> Water Access
<input type="checkbox"/> Other Public Road	<input checked="" type="checkbox"/> Private Road
4.6 What type of WATER SUPPLY is proposed?	
<input type="checkbox"/> Publicly owned and operated piped water supply	
<input type="checkbox"/> Lake	
<input type="checkbox"/> Well (private or communal)	
<input checked="" type="checkbox"/> Other (specify) Cistern	
4.7 What type of SEWAGE DISPOSAL is proposed?	
<input type="checkbox"/> Publicly owned and operated sanitary sewage system	
<input checked="" type="checkbox"/> Septic system (private or communal)	
<input type="checkbox"/> Other (specify)	
4.8 What type of STORMWATER DISPOSAL is proposed?	
<input type="checkbox"/> Publicly owned and operated stormwater system	
<input checked="" type="checkbox"/> Other (specify)	
4.9 Has a Pre-Consultation application been filed for this proposal?	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If Yes, please indicate the meeting date: _____	

SECTION 5: NATURE & EXTENT OF RELIEF FROM THE ZONING BY-LAW

<p>5.1 Nature and Extent of Relief from the Zoning By-law:</p> <p>The historic lots are now not large enough to meet current by-law however most of the homes on the firelane do not have a 30meter frontage. In consultation with Jamie Kennedy from Terra Dynamic consulting we changed from making six lots into 3 and made 6 lots into 2 . It was approved without any minor variance required but because of timing to get a development agreement complete we have had to reapply and this time apply for two variances.</p>
<p>5.2 Why is it not possible to comply with the Zoning By-law?</p> <p>Frontage of lot not 30 meters meters because of irregular shape of lot and historic size of homes on the laneway. The house size which is approved by the region for the septic is 2000 sq ft or 16% of lot. Many of current homes have smaller frontages and overall area thus our design will not negatively impact the historic "look" on the firelane, unlike new approved houses taking up over 60% of the lot area.</p>
<p>5.3 Does the structure(s) pertaining to the application for Minor Variance already exist?</p> <p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p>
<p>5.4 If the answer to 5.3 is YES, has a building permit been issued?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>

If the answer is "Yes," please provide the following information:

File Number:
Decision:

SECTION 6: ALL EXISTING, PREVIOUS AND ADJACENT USE OF THE LAND

6.1 ALL EXISTING USE		
<input type="checkbox"/> Residential	<input type="checkbox"/> Institutional	<input checked="" type="checkbox"/> Vacant
<input type="checkbox"/> Industrial	<input type="checkbox"/> Agricultural	<input type="checkbox"/> Other (specify):
<input type="checkbox"/> Commercial	<input type="checkbox"/> Parkland	_____
6.2 What is the length of time the existing use(s) of the land have continued?		
since the property was first zoned residential		
6.3 Are there any buildings or structures on the subject land?		
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
If Yes, briefly describe and indicate their use.		

6.4 Are any of these buildings designated under the Ontario Heritage Act?		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Unknown
6.5 Has the grading of the subject land been changed by adding earth or material? Has filling occurred on the subject land?		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Unknown
6.6 Has a gasoline station and/or automobile service station been located on the subject land or adjacent lands at any time?		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Unknown
6.7 Has there been petroleum or other fuel stored on the subject land or adjacent lands?		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Unknown
6.8 Are there or have there ever been underground storage tanks or buried waste on the subject land or adjacent lands?		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Unknown
6.9 Have the lands or adjacent lands ever been used as an agricultural operation where pesticides have been applied to the lands?		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Unknown
6.10 Have the lands or adjacent lands ever been used as a weapon firing range?		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Unknown
6.11 Is the nearest boundary line of the application within 500 metres (1,640 feet) of the boundary line of an operational / non-operational public or private landfill or dump?		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Unknown
6.12 If there are existing or previously existing buildings on the subject lands, are there any building materials remaining on site which are potentially hazardous to public health (e.g., asbestos, PCB's)?		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Unknown
6.13 If there has been industrial or commercial uses on the property, a previous use inventory is needed. Is a previous use inventory attached?		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Unknown
6.14 Is there reason to believe the subject lands may have been contaminated by existing or former uses on the site or adjacent sites?*		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Unknown
<p>If previous use of property is industrial or commercial or if the answer was YES to any of the above, please attach a previous use inventory showing all former uses of the land, or if applicable, the land(s) adjacent to the land.</p> <p>*Possible uses that can cause contamination include operation of electrical transformer stations, disposal of waste minerals, raw material storage, and residues left in containers, maintenance activities, and spills. Some commercial properties such as gasoline stations, automotive repair garages, and dry-cleaning plants have similar potential. Any industrial use can result in potential contamination. The longer a property is under industrial or similar use, the greater the potential for site contamination. Also, a series of different industrial or similar uses upon a site could potentially increase the number of chemicals which are present.</p>		

ACKNOWLEDGMENT CLAUSE

I hereby acknowledge that it is my responsibility to ensure that I am in compliance with all applicable laws, regulations, and standards pertaining to contaminated sites. I further acknowledge that the City of Port Colborne is not responsible for the identification and/or remediation of contaminated sites, and I agree, whether in (or as a result of) any action or proceeding for environmental clean-up of any damage or otherwise, I will not sue or make claim whatsoever against the City of Port Colborne, its officers, officials, employees or agents for or in respect of any loss, damage, injury or costs.

X 3/6/24
Date

Signature of Owner
X P. W. Smith

Pre-Screening Criteria

9.1 Is there land on the property identified in the Official Plan and / or Zoning By-law as "hazard lands"?		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Unknown
9.2 Is there a watercourse or municipal drain on the property or within 15 metres of the property?		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Unknown
9.3 Is the property located on or within 30 metres of the Lake Erie shoreline?		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Unknown
9.4 Is there a valley slope on the property?		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Unknown
9.5 Is there known localized flooding or a marsh / bog area on or within 30 metres of the property?		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Unknown
9.6 Is the property on a Regional Road?		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Unknown

AUTHORIZATIONS

SIGNATURE OF APPLICANT(S)

X 3/7/24
Date

X P.W. Smith
Signature of Applicant(s)

Please note: If the applicant is not the owner of the subject land or there is more than one owner, written authorization of the owner(s) is required (Complete Form 1) indicating that the applicant is authorized to make application.

I/We P.W. Smith
Of the City/Town/Township of PORT COLBORNE
In the County/District/Regional Municipality of NIAGARA

solemnly declare that all the statements contained in this application are true, and I/we make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of the Canada Evidence Act.

DECLARED before me at the
City of Port Colborne
In the Region of Niagara
This 7 day of March
20 24.

A Commissioner, etc.
Taya Taraba
Taya Taraba

Personal information collected on this application will become part of a public record. Any questions regarding this collection should be directed to the City Clerk at 66 Charlotte Street, Port Colborne, Ontario L3K 3C8 (905) 835-2900 Ext. 106.

Taya Hope Taraba, a Commissioner, etc.,
Province of Ontario, for the Corporation
of the City of Port Colborne.
Expires January 31, 2027.

TO BE SIGNED IN THE PRESENCE OF A
COMMISSIONER FOR TAKING AFFIDAVITS

X P.W. Smith
Signature of applicant(s), solicitor, or authorized agent

Peter Smith

POSTING OF PUBLIC HEARING SIGN

A public hearing sign is required to be posted by all applicants or agents on each property under application. A sign will be made available to you after review of your application, and you are required to post each sign in a prominent location on the subject property. The sign should be placed so that it is legible from the roadway.

Each sign must remain posted a minimum of 14 days prior to the hearing, until the day following the hearing. Should a sign go missing or become damaged or illegible please contact the Secretary-Treasurer as soon as possible to request a replacement sign. Failure to post the sign as required may result in deferral of you application(s).

Please note that an affidavit must also be signed and commissioned in the presence of a Commissioner of Oaths. This can be done at City Hall AFTER the signs have been posted.

I/We P. W. Smith am/are the owner(s) of the land subject to this application for a Minor Variance and I/We agree to post the required sign(s) a minimum of 14 days prior to the hearing and will remain posted, and replaced, if necessary, until the day following the hearing.

Sign Here
X P. W. Smith
Signature of Owner/Agent

X 3/6/24
Date

Sign Here
X
Signature of Owner/Agent

X
Date

PERMISSION TO ENTER

I/We P. W. Smith am/are the owner(s) of the land subject to this application for a Minor Variance and I/We authorize the members of the Committee of Adjustment and the City of Port Colborne Planning Staff to enter onto the property for the purpose of evaluating the merits of the application(s).

Please note that the Committee should not be contacted by members of the public. Any comments, questions or concerns should be addressed through the Planning Division.

Sign Here
X P. W. Smith
Signature of Owner

X 7/3/24
Date

Sign Here
X
Signature of Owner

X
Date

AUTHORIZATION FOR AGENT / SOLICITOR (IF APPLICABLE)

If the application is not the owner of the lane that is subject to this application for a Minor Variance, the authorization set out below must be completed by the owner(s). All registered owners must complete the authorization form for it to be valid.

Please Note: If the registered owner is a corporation, in addition to the signatures of the authorized signing officers, the corporate seal must be affixed.

Where the Owner is without a spouse, common-law or legally married, the Owner is required to sign only once. Where the spouse of the Owner is not an owner, the spouse is required to sign. Spouse shall include a common-law spouse as defined within the *Family Law Reform Act*.

I/We P. W. Smith am/are the owner(s) of the land that is subject to this application for a Minor Variance and I/We hereby authorize as my/our agent for the purposes of submitting an application(s) to the Committee of Adjustment for a Minor Variance.

Sign Here
P. W. Smith
Signature of Owner

7/3/24
Date

Sign Here

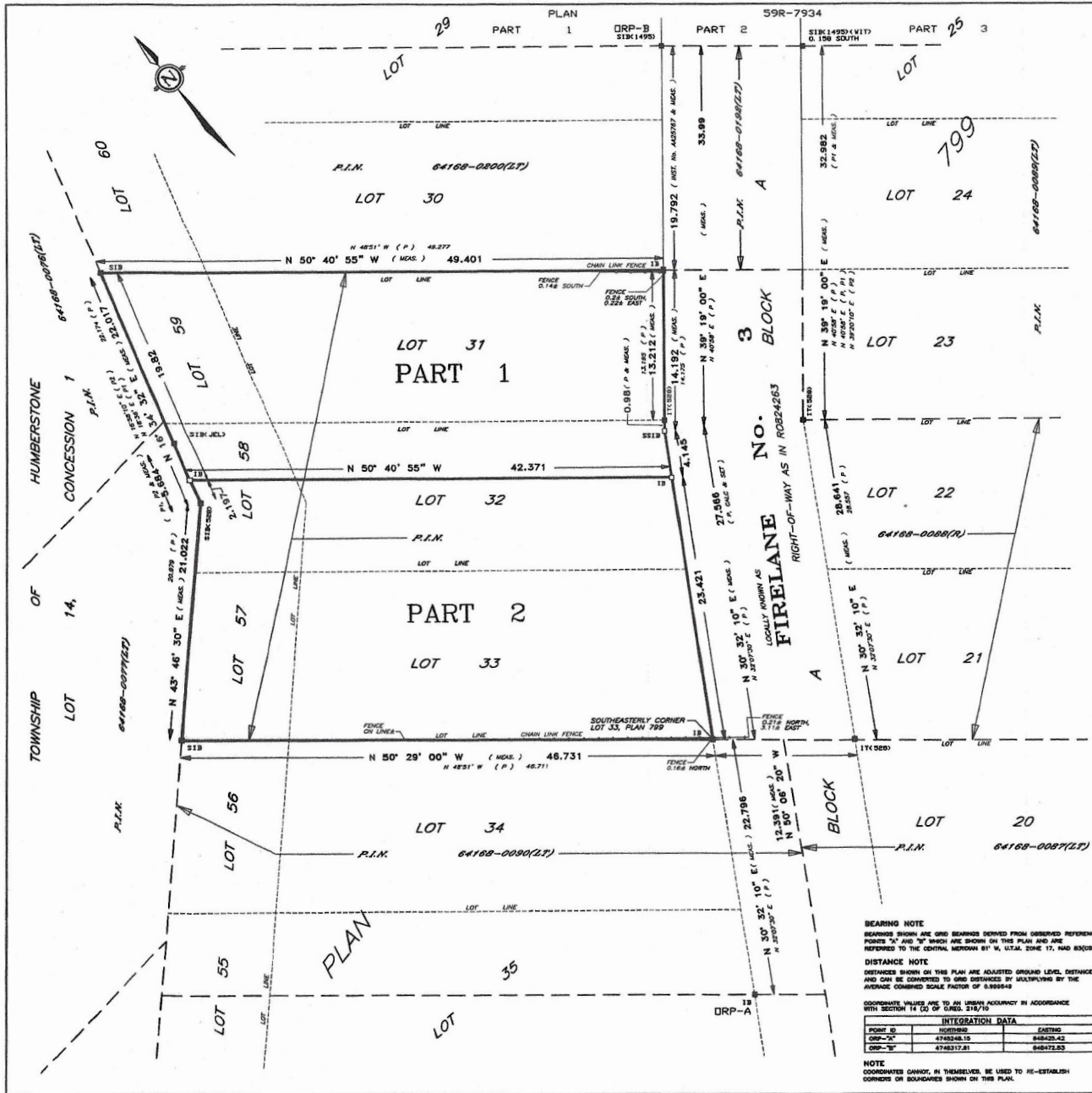
Signature of Owner

Date

Sign Here

Signature of Agent

Date



I REQUIRE THIS PLAN TO BE DEPOSITED UNDER THE REGISTRY ACT

PLAN 30 R-16201
RECEIVED AND DEPOSITED

DATE: JANUARY 16, 2024 DATE: JAN 17 2024

Philip Suda
PHILIP S. SUDA O.L.S.

Samantha Rill
REPRESENTATIVE FOR THE LAND REGISTRAR FOR THE REGISTRY DIVISION OF NIAGARA NORTH(30)

SCHEDULE			
PART	LOT	PLAN	P.I.N.
1	LOTS 31 & 59 PART OF 32 & 58	799	PART OF 64168-0086(0)
2	PART OF 32 & 58 LOTS 33 & 57		

PARTS 1 AND 2 COMPRISE PART OF P.I.N. 64168-0086(0)

PLAN OF SURVEY OF
LOTS 31, 32, 33, 57, 58 AND 59,
PLAN 799

IN THE
CITY OF PORT COLBORNE
REGIONAL MUNICIPALITY OF NIAGARA

SCALE 1 : 250

PHILIP S. SUDA O.L.S.

METRIC NOTE
DISTANCES AND COORDINATES SHOWN ON THIS PLAN ARE IN METERS AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

LEGEND

B	DENOTES SURVEY MONUMENT FOUND
D	DENOTES SURVEY MONUMENT SET
S	DENOTES STANDARD IRON NAIL
S	DENOTES SHORT STANDARD IRON BAR
S	DENOTES IRON BAR
T	DENOTES IRON TUBES
R	DENOTES ROUND IRON BAR
C	DENOTES CUP CROSS
W	DENOTES WIRE
P	DENOTES CONCRETE PIN AND WASHER
P	DENOTES PLAN 799
P	DENOTES DEPOSITED PLAN 588-7834
P	DENOTES DEPOSITED PLAN 588-15049
J	DENOTES J.L. LAUMER O.L.S.
S	DENOTES J.R. SCOTT O.L.S.
1485	DENOTES P.O. REDMAN O.L.S.

SURVEYOR'S CERTIFICATE

I CERTIFY THAT:

1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE REGISTRY ACT AND THE REGULATIONS MADE UNDER THEM.

2. THE SURVEY WAS COMPLETED ON THE 16 TH DAY OF JANUARY 20 24

DATE: JANUARY 16, 2024 *Philip Suda*
PHILIP S. SUDA
ONTARIO LAND SURVEYOR

This Plan of Survey relates to AOLS Plan Submission Form Number V-60882

SUDA & MALESZYK SURVEYING INC.
ONTARIO LAND SURVEYORS
26 EAST MAIN STREET, WELLSAND, ONTARIO, L3B 3W3
TEL: (905) 732-7651

FILE NO: 24-06 JOB NO: 6063-2

BEARING NOTE
BEARINGS SHOWN ARE GRID BEARINGS DERIVED FROM OBSERVED REFERENCE POINTS "A" AND "B" WHICH ARE SHOWN ON THIS PLAN AND ARE REFERRED TO THE CENTRAL MERIDIAN BY "N, U.T.M. ZONE 17, ROAD 8300000"

DISTANCE NOTE
DISTANCES SHOWN ON THIS PLAN ARE ADJUSTED GROUND LEVEL DISTANCES AND CAN BE CONVERTED TO GRID DISTANCES BY MULTIPLYING BY THE APPLICABLE CORRECTION SCALE FACTOR OF 0.99994

COORDINATE VALUES ARE TO AN UNIFORM ACCURACY IN ACCORDANCE WITH SECTION 14 (2) OF CLASO, 218/10

INTEGRATION DATA	
POINT ID	COORDINATES
DRP-B*	4749248.15 6484235.42
DRP-W*	6748217.81 6484272.53

NOTE
COORDINATES SHOWN, IN THIS PLAN, BE USED TO RE-ESTABLISH CORNERS OR BOUNDARIES SHOWN ON THIS PLAN.