

**Application A26-23-PC**

**February 22, 2024**

**IN THE MATTER OF** the Planning Act, R.S.O., 1990, c.P.13, as amended, Sections 2.8.1 (a) (ii), 11.3 (d), 11.3 (g) of the City of Port Colborne Zoning By-law 6575/30/18, as amended.

**AND IN THE MATTER OF** the lands legally known as Lot 40 on Plan 811, in the City of Port Colborne, located in the Lakeshore Residential (LR) zone, municipally known as 3637 Firelane 12.

**AND IN THE MATTER OF AN APPLICATION** by the agent Craig Esposti, on behalf of the owner Diane Leon, for relief from the provisions of Zoning By-Law 6575/30/18, as amended, under Section 45 of the Planning Act, R.S.O. 1990 c.P. 13, to permit a reduced interior side yard setback, increased lot coverage, and an increased maximum height of an accessory structure, notwithstanding the following:

1. That a maximum interior side yard setback of 2.05m be permitted whereas 3m is required;
2. That a maximum lot coverage of 16.16% be permitted whereas 15% is required;
3. That a maximum accessory structure height of 7m be permitted whereas 6m is required.

That minor variance application **A26-23-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.**

**Subject to the following conditions:**

1. That the applicant/owner receive acceptance from the Ministry of Citizenship and Multiculturalism (MCM) for the archaeological assessment report titled Stage 1 & 2 Archaeological Assessment, prepared by Archaeological Consultants Canada (dated November 8, 2023). If the Ministry requires further archaeological work to be completed prior to acknowledging this report, these report(s) must also be submitted to and acknowledged by the Ministry, to the satisfaction of Niagara Region, prior to clearance of this condition. No demolition, grading or other soil disturbances shall take place on the subject property prior to the issuance of a letter from MCM through Niagara Region, confirming that all archaeological resource concerns have met licensing and resource conservation requirements.
2. That the applicant implements Best Management Practices during construction, including (but not limited to) a Tree Protection Plan (TPP) and an Erosion & Sediment Control (ESC) plan.
3. That the applicant applies and receives approval for a new class 4 sewage system meeting Ontario Building Code requirements.

**NOTE: Public comments were received during the decision-making**

**process. DATED AT PORT COLBORNE this 22nd day of February 2024.**

**DECISIONS SIGNED:**

“Dan O’Hara”	“Angie Desmarais”	“Dave Elliot”		“Gary Bruno”
Signature of Committee Chair	Signature of Committee Member	Signature of Committee Member	Signature of Committee Member	Signature of Committee Member
<b>Dan O’Hara</b>	<b>Angie Desmarais</b>	<b>Dave Elliott</b>	<b>Eric Beauregard</b>	<b>Gary Bruno</b>

## THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO LAND TRIBUNAL MAY BE FILED IS:

March 5<sup>th</sup>, 2024

The Decision of the Committee of Adjustment, when not appealed, does not become final and binding until **20 days** from the giving of the notice has elapsed as set out in subsection (21) of Section 53 of The Planning Act, R.S.O. 1990, c.P.13, as amended.

### Appeal to the Ontario Land Tribunal

The applicant, the Minister or any specified person or public body who has an interest in the matter may within 20 days of the making of the minor variance decision (20 days from date of mailing of consent decision) appeal to the Ontario Land Tribunal (OLT) against the decision of the Committee by filing with the Secretary-Treasurer of the Committee a completed Appellant Form (A1) accompanied by payment of the fee. **A copy of the appeal form is available on the Ontario Land Tribunals website at <https://olt.gov.on.ca/tribunals/lpat/forms/appellant-applicant-forms/>**

### Cost of the Appeal

The cost of the appeal is \$400 for the first consent, or minor variance application. Each additional appeal filed by the same appellant against connected consent or minor variance applications is \$25.00. Appeal fees must be paid by certified cheque or money order to the **Minister of Finance**.

### OLT Process

On an appeal to the OLT, the Tribunal shall, except if all appeals are withdrawn or if the Tribunal dismisses the appeal, hold a hearing of which notice shall be given to the applicant, the appellant, the Secretary-Treasurer of the Committee and to such other persons and in such manner as the Tribunal may determine. If within such 20 days no notice of appeal is given, the decision of the Committee is final and binding, and the Secretary-Treasurer shall notify the applicant. Where all appeals to the OLT are withdrawn the decision of the committee is final and binding and the Secretary of the Tribunal shall notify the Secretary-Treasurer of the committee who in turn shall notify the applicant.

### OLT Dismissal Without Hearing

The OLT may dismiss the appeal and may make any decision that the Committee could have made on the original application. The OLT may dismiss all or part of any appeal without holding a hearing, on its own motion or on the motion of any party if it is the opinion that,

1. The reasons set out in the notice of appeal do not disclose any apparent land use planning ground which the Tribunal could allow all or part of the appeal;
2. The appeal is not made in good faith, or is frivolous, or vexatious;
3. The appeal is only made for the purpose of delay;
4. The appellant has not provided written reasons for the appeal;
5. The appellant has not paid the fee prescribed under the *Ontario Land Tribunal Act*, or;
6. The appellant has not responded to a request by the OLT for further information within the time specified by the Tribunal.

#### Appeals should be directed to:

Secretary-Treasurer  
Port Colborne Committee of Adjustment  
City of Port Colborne  
66 Charlotte Street  
Port Colborne, Ontario L3K 3C8  
Telephone: (905) 835-2900 ext. 204