

Application B19-24-PC

December 17, 2024

IN THE MATTER OF the Planning Act, R.S.O., 1990, c.P.13, Section 53 (1).

AND IN THE MATTER OF the lands the lands legally known as Part Lot 5, Concession 1, in the City of Port Colborne, located in the Hamlet Residential (HR) zone, municipally known as 4838 Sherkston Road;

AND IN THE MATTER OF AN APPLICATION by the agent Urban Belief Inc., on behalf of owner Hassan Kurabi, for consent to sever for the purposes of creating a new residential lot. The subject parcels are shown as Parts 3 and 5 on the proposed sketch, where Part 5 is to be retained for an existing agricultural use, Part 3 is to be severed for a future residential use, and Part 4 is to be established as an access easement for Part 5.

That consent application **B19-24-PC** be **granted** subject to the conditions outlined in the staff report dated December 6th, 2024:

1. That the applicant provides the Secretary-Treasurer with the deeds for the conveyance of the subject parcels or registrable legal description of the subject parcels, 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 owner provides a written undertaking stating that Part 3 shall merge on title with Part 4, and that future purchase and sales agreements will include a clause advising that a new class 4 sewage system shall be fully contained on Part 1 and meet the required setbacks to the property line 4.2 metres west of the dwelling located on Part 1, to the satisfaction of Region of Niagara and City of Port Colborne staff.
4. That the Hydrogeological Study, prepared by Terra-Dynamics Consulting Inc. (dated July 12, 2024) be revised to include the nitrate-nitrogen calculations to determine the location of the septic systems and the type of additional treatment, if required, to the satisfaction of Region of Niagara and City of Port Colborne staff.
5. That a drainage apportionment agreement be completed by the City's Drainage Superintendent or by an approved engineer at the cost of the applicant. A copy of the deposited plan must be delivered to the Drainage Superintendent through the planning department for the apportionment agreement to be completed.
6. That the applicant(s) sign 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.
7. That a Stage 1 Archaeological Assessment (at minimum) be completed for the subject lands and receive acceptance from the Ministry of Citizenship and Multiculturalism (MCM). 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.
8. That the owner enters into a Development Agreement with the City Port Colborne to implement the recommendations of the Natural Heritage Constraints Assessment, prepared by Colville Consulting Inc. (dated December 2023), and the Hydrogeological Study, prepared by Terra-Dynamics Consulting Inc. (dated July 12, 2024), prior to any construction or site alteration, to the satisfaction of Region of Niagara and City of Port Colborne staff.
9. That minor variance application A32-24-PC be approved.

10. That all conditions of consent be cleared by December 11, 2026.

For the following reasons:

1. The application is consistent with the Provincial Planning Statement, the Niagara Official Plan, City of Port Colborne Official Plan, and will comply with the provisions of Zoning By-law 6575/30/18, as amended, provided the concurrent minor variance application is approved.

NOTE: Public comments were received during the decision-making process.

DATED AT PORT COLBORNE this 11th of December 2024.

DECISIONS SIGNED:

"Dan O'Hara"	"Angie Desmarais"	"Dave Elliot"	"Eric Beauregard"	"Gary Bruno"
Signature of Committee Chair	Signature of Committee Member	Signature of Committee Member	Signature of Committee Member	Signature of Committee Member
Dan O'Hara	Angie Desmarais	Dave Elliott	Eric Beauregard	Gary Bruno

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

[January 6, 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)-228-8124