

Members Present: Dan O'Hara, Angie Desmarais, Gary Bruno, Eric Beauregard

Staff Present: Samantha Yeung, Planning Technician/Secretary-Treasurer
Chris Roome, Planner

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

1. Disclosures of Pecuniary Interest:

Nil.

2. Requests for Deferrals or Withdrawals of Applications:

Nil.

3. New Business

i) **Application: B09-22-PC**

Action: Consent
Agent: Christopher Wilson
Owner: Andy Veenstra
Location: 1498 Wilhelm Road

The Secretary-Treasurer read the correspondence received for this application.

The applicant did not defer nor provide any further comments.

The Chair asked if the applicant was given new signs for this meeting.

The Applicant responded that the signs for the first meeting were posted until this meeting date however he was not given new signs for this meeting.

The Chair stated that he is of the opinion that since a new meeting date was not set when the application was deferred, and no new signs were posted, proper notice was not given. He stated that he would like proper signage to be put up and notice be sent out in regard to this application.

Member Bruno stated that he agrees with the Chair's comments, but he does not believe this matter to be the fault of the applicant. He stated that he would like to proceed with this application and deal with the matter internally.

Member Desmarais stated that she is of the same opinion as Member Bruno and suggested that this matter be added into the Other Business section of the agenda.

Member Beauregard asked if the applicant's agent would be in attendance today.

The applicant said that the agent is online.

Member Beauregard stated that since new signs were not put up for this meeting, it could give grounds to appeal this application. He asked if there is a timeframe within which a decision must be made.

The applicant explained that they wish for the application to be expediated as much as possible as they have future plans to build.

Member Beauregard stated that he understands the applicants concerns however there are legislative matters that must also be considered.

The Planner responded that as per the Planning Act, once an application is made there is a 30 day period in which a meeting must be scheduled. He explained that once a deferral has been voted on, the Planning Act does not have any requirements on re-notifying for the next date. He explained that new meeting dates for deferred items are posted on the City's website.

Member Beauregard asked if the time period for making a decision works the same way for Committee of Adjustment as it does for a zoning by-law amendment.

The Planner responded yes but for Committee of Adjustment the time period is 30 days.

Member Beauregard asked when the 30 day time period would have started for this application.

The Planner responded that the applicant initially applied 2-3 months ago now.

Member Beauregard asked if the initial deferral was at the request of Staff or the Applicant.

The Planner responded that the request for deferral was at the request of the Region, as they were not able to complete the septic inspection as there was no run exposed at the time of inspection. It later became apparent that the NPCA needed additional time to review due to an unmapped floodplain.

The Agent stated he believes adequate notice was given, and there were no other persons in attendance regarding the application at the initial meeting and that no other comments have been received. He requested that the committee proceed with a decision for this application. He explained that this is a straightforward severance of a surplus farm dwelling, that this application complies to the Provincial Policy, and that the Region and NPCA are satisfied.

The Chair asked the agent if there is a difference between a deferral and adjournment.

The agent responded no, there is no absolute difference. He explained that the merits of this application have not been considered until this meeting and there has been plenty of notice for any party who may be interested, and the relevant agencies have already commented.

The Chair explained that he disagrees.

Member Desmarais explained that she does not believe the applicant should be held responsible, and that this matter should be dealt with internally with staff.

Member Bruno explained that he would like to proceed as the applicant's agent/lawyer recognizes the Committee's concerns and still believes they should proceed.

That consent application B09-22-PC be **granted** subject to the following conditions:

1. That the applicant provides the Secretary-Treasurer with the deeds in triplicate for 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 \$216 payable to the City of Port Colborne is submitted to the Secretary-Treasurer.
3. Approval of a Zoning By-law Amendment for Part 1 to Agricultural Residential zone and for Part 2 to an Agricultural Purposes Only zone.
4. That the owner dedicates a 3.05-meter road widening to the Regional Municipality of Niagara across the Regional Road 98 (Wilhelm Road) frontage of the severed parcel (Part 1), prior to the satisfaction of the Regional Municipality of Niagara. All costs for providing the necessary survey plan and related documents are the responsibility of the applicant.
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 all conditions of consent be completed by August 10th, 2024.

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.

Motion: Eric Beauregard

Seconded: Gary Bruno

Carries: 3-1

ii) **Application: B12-22-PC**

iii) **Application: A22-22-PC**

Action: Consent & Minor Variance

Agent: Leigh Whyte

Owner: Bryan Keenan

Location: 624 Elm Street

The Secretary-Treasurer read all the correspondence received for this application.

The Agent explained that they will have a deficient lot area however all other setbacks will be satisfied. He also explained that there are provisions within the Zoning By-law allowing for a lot area requirement is 200 sq. meters should the proposed semi be divided in the future, which the proposal would be able to comply with. He stated that they will provide grading plans at the time of applying for a building permit, to ensure that all aspects of the property would drain independently, and to ensure that the grading plan for the semis would keep both halves draining independently so as to avoid needing a mutual consent agreement should a severance be proposed in the future.

There were no further questions or comments from the Committee or members of the public.

That minor variance application A22-22-PC be **granted** for the following reasons:

1. **The application is minor in nature** as the decrease in lot area will not negatively impact the subject parcel and can accommodate future development with amenity space.
2. **It is appropriate for development of the site** as the reduction in lot area will not restrict the location of a future dwelling on the property.
3. **It is desirable and in compliance with the general intent and purpose of the Zoning By-Law** as the zoning by-law permits semi-detached

dwellings in the R2 zone and will have enough amenity space for future dwellings.

4. **It is desirable and in compliance with the general intent and purpose of the Official Plan** as detached dwellings are permitted in the Urban Residential designation.

Member Beauregard asked if the concrete walkway that crosses the parcels as shown on the severance sketch is still existing.

The applicant responded yes and that it would be removed.

Member Beauregard asked if the removal of the walkway could be added as a condition of consent.

That consent application B12-22-PC be **granted** subject to the following outlined in the staff report dated August 5th, 2022:

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 \$216 payable to the City of Port Colborne is submitted to the Secretary-Treasurer.
3. That minor variance application A21-22-PC be granted
4. That the existing concrete walkway that crosses the two parcels be removed.
5. That all conditions of consent be completed by August 10th, 2024.

Motion: Angie Desmarais

Seconded: Eric Beauregard

Carried: 4-0

- iv) **Application: B01-22-PC**
- v) **Application: B02-22-PC**
- vi) **Application: B03-22-PC**
- vii) **Application: A21-22-PC**

Action: Consent (x3) & Minor Variance
Agent: Eldon Dyson
Owners: Robert Williams
Location: Killaly St. East

The Secretary-Treasurer read all the correspondence received for this application.

The Owner, Robert Williams, approached the stand and invited his agent Eldon Dyson to speak on his behalf.

The Agent spoke to the discrepancy regarding the notice sign, by explaining that the intent and purpose of the severance is clear had been made clear and no public comments have been received.

The Agent also explained that the minor variance is based on a severance sketch that states 28.82m of frontage and explained that that number may change when the surveyor goes to confirm the property lines. He requested that the committee grant 28.5m to provide some lenience.

Member Bruno asked if planning staff would agree with the agent's statement that it's standard practice for the dimensions of the lot may change after the surveyor completes the pinning process.

The Planner explained that the measurements of the lot are not technically exact until the surveyor does the stakes, and that it would not be out of practice for the committee to grant some leniency for the consent.

Member Beauregard agreed with the Planner's comments that it is common to leave some flexibility for the lot dimensions to change.

The Chair agreed with leaving some flexibility for the consent application however stated that they can only request the amount of variance that was displayed on the notice. He explained that the minor variance application could be adjourned if the applicant desired.

Karen Hartery of 2665 Highway 3 expressed concerns of water drainage and water supply. She questioned if the new homes would be supplied with well water and if the existing well would be sufficient to support another four houses.

The applicant explained that the hydrogeologist recommended cisterns be used for supplying water to the new homes. He also explained that a drainage plan has been prepared and that the ditch has been improved. He explained the particulars of the drainage plan.

The Chair suggested the Committee approve the consents first then discuss the potential alterations of the minor variance after.

Member Beauregard asked if the minor variance was a condition of the consents, requiring it to be passed first.

The Chair stated that Part 1 has a condition that the minor variance be granted.

Member Beauregard asked what would happen with the consent for Part 1 if the variance was not granted.

The Chair responded that they would have two years to obtain that variance.

The Chair asked if the lots were uniquely designed so that they all front onto a municipally serviced road.

The Planner responded yes, the applicant wanted to give each lot their own private lane, however following a later review it was determined that it would not be possible to police that, therefore the easement has been requested as a condition to the consents. He explained that the design of the lots was initially for access however it also serves the requirement that all lots must have frontage onto a municipal road.

The Chair asked if there is a minimal amount that has to front onto a municipal road.

The Planner responded that he does not believe there is a minimal amount.

The Chair explained that it was initially thought that frontage is measured 10 meters from the front lot line however it was later found to be 6 meters. Based on this information, he provided a suggest as to how the lot lines could be adjusted so that the lot frontage complies, meaning a variance would no longer be required.

The Planner responded that his suggestion would work however the application has to be processed the way it was proposed.

The Chair presented various options to the application regarding adjourning or proceeding with the application.

Member Beauregard asked the granting of the minor variance should be left as a condition if the application becomes adjourned.

The Chair responded that it could be left, and if the new lot designs complied and the variance would no longer be required, the applicant could come back to the committee and ask for the condition to be removed.

Member Beauregard asked if conditions could be passed to the municipality's satisfaction.

The Planner responded yes, the condition could be worded so that it states "in the event a minor variance is required..."

The Chair asked if the right of way would be considered an easement in perpetuity and if it would also be a part of this consent.

The Planner responded that there are different ways to go about registering easements and that it would be up to the applicant. An easement in perpetuity would have to be done through the Committee of Adjustment, and an easement for 21 years less a day could be done through a lawyer.

The Chair asked if the easement could be added to this consent application or if it would have to be a separate application.

The Planner responded that the applicant would have to submit a separate application.

The Chair asked the applicant if they would like to proceed or adjourn the minor variance application.

The Applicant stated that he would like to proceed with the application.

Member Bruno expressed concerns over the level of advice that has been given by the committee.

The Agent stated that the application for the variance was for 28.82m plus or minus and asked that the committee recognize the plus or minus.

The Chair explained that the notice says a minimum lot frontage of 28.82 m, and "plus or minus" is not included. He explained that "plus or minus" is too vague of a term and the definition can vary.

The Agent agreed to the Chairs comments.

The Applicant agreed as well and asked what would happen if the combined widths of the driveway became less than 6 meters.

The Chair responded that as long as it is less than six the frontages would be defined per the by-law.

That minor variance application A21-22-PC be **granted** for the following reasons:

1. **The application is minor in nature** as the decrease in lot frontage from 45m to 28.82m will not negatively impact the subject parcel.
2. **It is appropriate for development of the site** as the reduction in lot frontage will not restrict the location of a future dwelling on the property.
3. **It is desirable and in compliance with the general intent and purpose of the Zoning By-Law** as the zoning by-law permits detached dwellings in the HR zone and a future dwelling will be able to meet the setback requirements of the zone.
4. **It is desirable and in compliance with the general intent and purpose of the Official Plan** as detached dwellings are permitted in the Hamlet designation.

Motion: Gary Bruno

Seconded: Eric Beauregard

Carried: 4-0

That consent application B01-22-PC be **granted** subject to the conditions outlined in the staff report dated August 5th, 2022:

1. That a drainage apportionment agreement is completed by the City's Drainage Superintendent or by an approved engineer at the cost of the applicant to the satisfaction of the City's Drainage Superintendent. A deposited plan is required for the apportionment agreement to be completed.
2. 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.
3. That a final certification fee of \$216 payable to the City of Port Colborne is submitted to the Secretary-Treasurer.
4. That the applicant registers an easement on the title over Part 1, on the submitted sketch to permit access to Part 2.
5. That the constructed laneway be a minimum of 6m in width, a 12m center line turning radius be provided from Killaly Street, and that the surface is suitable for fire trucks.
6. That the Owner enters into a Development Agreement with the City of Port Colborne to require and implement the recommendations of the "*Hydrogeological Technical Memorandum*", prepared by Landtek Limited (dated July 26, 2022) for Part 1-4 before any construction or site alteration, to the Region's satisfaction and to and implement standard noise mitigation measures of the "*Planning Justification Report*" prepared by G. Douglas Vallee Limited (dated June 30, 2022) for any future residential dwellings, including exterior brick façade, triple pane façade windows, and central air conditioning.

7. That minor variance application A21-22-PC be granted.
8. That all conditions of consent be completed by August 10th, 2024.

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.

Motion: Gary Bruno

Seconded: Eric Beauregard

Carried: 4-0

That consent application B02-22-PC be **granted** subject to the conditions outlined in the staff report dated August 5th, 2022:

1. 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.
2. That the applicant provides the Secretary-Treasurer with the deeds in triplicate for 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.
3. That a final certification fee of \$216 payable to the City of Port Colborne be submitted to the Secretary-Treasurer.
4. That the applicant registers an easement on the title over Part 1 and Part 2 on the submitted sketch, providing access to Part 3.
5. That the constructed laneway be a minimum of 6m in width, a 12m centre line turning radius be provided from Killaly Street, and that the surface is suitable for fire trucks.
6. That the Owner enters into a Development Agreement with the City of Port Colborne to require and implement the recommendations of the "*Hydrogeological Technical Memorandum*", prepared by Landtek Limited (dated July 26, 2022) for Part 1-4 before any construction or site alteration, to the Region's satisfaction and to and implement standard noise mitigation measures of the "*Planning Justification Report*" prepared by G. Douglas Vallee Limited (dated June 30, 2022) for any future residential dwellings, including exterior brick façade, triple pane façade windows, and central air conditioning.
7. That minor variance application A21-22-PC be granted.
8. That all conditions of consent be completed by August 10th, 2024.

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.

Motion: Gary Bruno

Seconded: Angie Desmarais

Carried: 4-0

That consent application B03-22-PC be **granted** subject to the conditions outlined in the staff report dated August 5th, 2022:

1. That a drainage apportionment agreement is completed by the City's Drainage Superintendent or by an approved engineer at the cost of the applicant to the satisfaction of the City's Drainage Superintendent. A deposited plan is required for the apportionment agreement to be completed.
2. 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.
3. That a final certification fee of \$216 payable to the City of Port Colborne is submitted to the Secretary-Treasurer.
4. That the applicant registers an easement on the title over Part 1, Part 2, and Part 3 on the submitted sketch to permit access to Part 4.
5. That the constructed laneway be a minimum of 6m in width, a 12m center line turning radius be provided from Killaly Street, and that the surface is suitable for fire trucks.
6. That the Owner enters into a Development Agreement with the City of Port Colborne to require and implement the recommendations of the "*Hydrogeological Technical Memorandum*", prepared by Landtek Limited (dated July 26, 2022) for Part 1-4 before any construction or site alteration, to the Region's satisfaction and to and implement standard noise mitigation measures of the "*Planning Justification Report*" prepared by G. Douglas Vallee Limited (dated June 30, 2022) for any future residential dwellings, including exterior brick façade, triple pane façade windows, and central air conditioning.
7. That minor variance application A21-22-PC be granted.
8. That all conditions of consent be completed by August 10th, 2024.

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.

Motion: Gary Bruno

Seconded: Angie Desmarais

Carried: 4-0

4. Other Business:

Member Desmarais asked for planning staff's opinion on signage and notification for deferred or adjourned applications.

The Planner explained that staff decided re-notification will not be sent out when an application is deferred. He explained that moving forward, when a deferral is made, a new meeting date would be set at the time and would also be posted on the City's website.

Member Desmarais asked if staff could find a defensible argument from the act to back that decision.

The Planner explained that staff could look into that and also stated that the act does not state that re-notification is necessary when a deferral is made.

Member Desmarais requested that this decision be confirmed in a legal sense.

Member Bruno suggested the Committee of Adjustment Association be referred to so as to see how other municipalities have handled similar issues.

The Planner responded that staff could do more research into the matter.

Member Beauregard suggested going to the city's solicitor for a legal opinion on the matter.

Member Desmarais agreed with Member Beauregard's suggestion to seek advice from the City's solicitor, and that the Committee of Adjustment Association's website did not have much relevant information on the matter.

The Chair explained that he had already contacted OACA and received a response from the manager of development services and secretary treasurer of Committee of Adjustment from Vaughan, and her opinion was to always give notice. He expressed his opinion that notice does not need to be recirculated if the meeting was adjourned, however if the meeting was deferred, notice should be recirculated.

Member Beauregard explained that through his experience with other municipalities, notice was required to be recirculated if there were errors in the original notice.

The Chair agreed that notice must be recirculated if there was a change in information.

Member Desmarais asked why staff has decided not to recirculate notice for deferrals.

The Planner responded that recirculating the notice of hearing requires staff to make a new sign and create and mail new notices, so the decision to not recirculate was made due to the amount of staff time it takes to recirculate notice. He also explained that he believes the deferral fee is to cover the Committee Members' wages, not staffs. He said that staff can look into seeking a legal opinion. He explained that should an application be appealed, it is the planner's responsibility to defend the decision based on their interpretation of the *Planning Act*.

The Chair stated that the *Planning Act* says that "the Committee shall give notice."

Member Desmarais agreed and stated that everyone needs to be on the same page.

Member Bruno explained that recirculating notice would be a good idea in order to remain transparent to the public, and suggested the fee be adjusted in order to cover the cost of staff time.

Member Beaugard suggested other methods of giving notice such as newspaper.

Member Desmarais stated the only effective method of giving notice is by posting a sign on the property.

5. Approval of Minutes:

Minutes from the July 13th, 2022, meetings were approved.

Motioned: Angie Desmarais

Seconded: Gary Bruno

Carried: 4-0

6. Adjournment

There being no further business, the meeting was adjourned at approximately 7:30 pm.