



**PORT COLBORNE**

Committee of Adjustment  
-Hearing Minutes-  
Wednesday, January 18th, 2023

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**Members Present:** Dan O'Hara, Chair  
Dave Elliott, Committee Member  
Eric Beauregard, Committee Member  
Angie Desmarais, Committee Member  
Gary Bruno, Committee Member

**Staff Present:** Chris Roome, Planner  
Diana Vasu, Secretary-Treasurer

**1. Election of Committee of Adjustment Chair and Vice Chair**

Member Bruno nominated Member O'Hara for the position of Chair.

Member O'Hara accepted the nomination.

Seconded by Member Desmarais.

That Member O'Hara be nominated for the position of Chair of the Committee of Adjustment effective January 18, 2023.

**Carried.**

It is noted that there are no other nominations for the position of Chair of the Committee, and that Member O'Hara is thereby acclaimed as Chair of the City of Port Colborne Committee of Adjustment.

Member Elliott nominated Member Desmarais for the position of Vice Chair.

Member Desmarais accepted the nomination.

Seconded by Member Bruno.

That Member Desmarais be nominated for the position of Vice Chair of the Committee of Adjustment effective January 2023.

**Carried.**

It is noted that there are no other nominations for the position of Vice Chair of the Committee, and that Member Desmarais is thereby acclaimed as Vice Chair of the City of Port Colborne Committee of Adjustment.

## **2. Call Hearing to Order**

The hearing was called to order by Chair Dan O'Hara following his election.

## **3. Reading of Hearing Protocol**

The Chair read the Hearing Protocol.

## **4. Disclosures of Interest**

Nil.

## **5. Requests for Deferrals or Withdrawals of Applications**

Nil.

## **6. New Business**

- a. Application: B01-23-PC & A01-23-PC  
Action: Consent & Minor Variance  
Agent: N/A  
Owners: Fangzy Wealth Corps LTD. and Ljubomir Manojlovic  
Location: 194 Neff Street

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

The Chair asked the applicant present at the hearing, Mr. Michael Fang, if he wished to defer or withdraw the applications, or if he had any further information to add.

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

Member Beauregard noted that there appear to be many trees on the property and asked if the applicants plan to cut them down for the proposed development.

Mr. Fang confirmed that they intend to cut down the tree in the middle of the lot.

Member Beauregard noted that there is no development proposed yet and, because the severed parcel could be sold for future development, asked if it is typical practice to remove features such as patio stones and concrete for the creation of a vacant lot.

Mr. Roome responded that the Committee can add the removal of the patio stones and concrete as a condition if they like, adding that such conditions have been imposed in the past.

Member Beauregard proposed that the conditions be amended to include that the patio stones and concrete which traverse onto the parcel to be severed, Part 1 on the severance sketch, be removed to the satisfaction of the Planning Department.

Member Elliott asked whether Member Beauregard was referring exclusively to the removal of the patio stones and concrete which are over the proposed lot line, but that the patio stones and concrete on the parcel to be retained are permitted to remain in place.

Member Beauregard responded in the affirmative.

The Chair asked if there were any further questions for the applicant.

Nancy Horne of 206 Neff Street expressed concern regarding the shadowing which may occur from future development of the lot and the potential removal of the trees near the back of the parcel to be severed.

Mr. Fang requested clarification regarding which trees Ms. Horne is concerned about.

Ms. Horne clarified that she was concerned with the two trees at the back of the parcel to be severed, which overhang into her backyard.

Mr. Fang responded that they do not intend to remove those trees as part of the proposed development.

Ms. Horne expressed further concerns regarding snow removal in the winter, stating that there are three driveways in a row.

The Chair responded that any snow to be removed would need to be put either on the median in front of her property or back onto her property. He added that any future occupants of the parcel to be severed would be subject to the same snow removal procedure.

Member Bruno reiterated The Chair's statement about snow removal.

Ms. Horne expressed concern with the size of her front lawn in the case of a large snowfall. She then stated she would be concerned with a future dwelling being two stories tall, as her dwelling is only one storey in height.



The Chair noted that a two-storey dwelling is permitted within the Zoning By-law.

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

That minor variance application A01-23-PC be **granted** for the following reasons:

1. **The application is minor in nature** as the decreased lot frontage and lot area would still provide enough space for a dwelling and enough amenity space to ensure there is no negative impact on the subject parcel.
2. **It is appropriate for the development of the site** as both the retained and severed lots would be of sufficient size and the proposal is compatible with most of the Zoning By-law requirements.
3. **It is desirable and in compliance with the general intent and purpose of the Zoning By-Law** as the proposed variance would still provide the owner with enough space for amenities and parking, and the lot fabric of the proposed lots would be similar to those existing in the area.
4. **It is desirable and in compliance with the general intent and purpose of the Official Plan** as lot creation for residential purposes is permitted in the Urban Residential designation established in the Official Plan.

Motion: Gary Bruno

Seconded: Eric Beauregard

Carried: 5-0

That consent application B01-23-PC be **granted** subject to the following conditions:

1. That the applicant provides the Secretary-Treasurer with the deeds in triplicate for the conveyance of the subject parcel or a registrable legal description of the subject parcel, together with a paper copy and electronic copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.
2. That a final certification fee of \$231 payable to the City of Port Colborne is submitted to the Secretary-Treasurer.
3. That the applicant submits a Master Lot Grading Plan, demonstrating that the severed parcel will drain independently and will not adversely affect surrounding properties, to the satisfaction of City Staff.
4. That the existing chain link fence on Part 1 be removed.
5. That minor variance application A01-23-PC be approved.
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. R.S.O 1990, as amended.

7. That all conditions of consent be completed by January 18th, 2025.

Member Bruno proposed that an amendment be made to the list of conditions for Application B01-23-PC, to include that the applicant remove all existing concrete on Part 1, to the satisfaction of City Staff.

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.

Member Beauregard proposed an amendment to Member Bruno's amendment, to include that all existing patio stones on Part 1 must also be removed.

Motion: Gary Bruno                      Seconded: Eric Beauregard

Carried: 5-0

- b.    Application: B02-23-PC, A02-23-PC, & A03-23-PC  
      Action:        Consent and 2 Minor Variances  
      Agent:        Connor Rush  
      Owner:        1703306 Ontario Inc.  
      Location:     248 Port Colborne Drive

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

The Chair asked the applicant present at the hearing, Mr. Mike Emonds, if he wished to defer or withdraw the applications, or if he had any further information to add.

Mr. Emonds clarified that the fourplex on the subject lands is no longer under construction and has been rented out. The applicant is only working on finishing the lot grading.

The Chair asked if the applicant had any comments with regard to the staff report on the sewer laterals on the subject lands.

Mr. Emonds noted that he would have to follow up on whether the subject lands have separate sewer laterals, but if they do not, then they will proceed with an easement.

Member Beauregard asked if the applicant would need to return to the Committee of Adjustment if an easement is required.

Mr. Roome responded that yes, the applicant would need to submit an easement application.

Member Elliott asked if the applicant had already submitted their grading plan to City staff for approval.

Mr. Emonds responded that he and his team did not do the current grading plan, they purchased the property with the current grading plan in place. The applicant understands that they will need to submit a revised grading plan. They have hired a grading surveyor to finish their grading plan before submitting it to the City.

Member Elliott noted that the driveways on the subject lands are currently in violation of a City by-law, then asked the applicant if they intend to remedy this violation.

Mr. Emonds responded that resolving their by-law violation will be part of their lot grading plan.

Member Elliott stated that he took issue with the proposed conditions giving the applicant until January 18, 2025 to clear the conditions which reference by-law violations. Member Elliott continued that he would rather give the applicant one building season to remedy the by-law violations, and that if the applicant had not brought the subject lands into compliance by November 1, 2023, then the applicant should be made to return to the Committee in the future (though he appreciates that the applicant is already working on remedying the situation).

Member Beauregard asked to clarify that the 2-year period for clearing all the proposed conditions is a statutory requirement which cannot be amended.

Mr. Roome responded in the affirmative, adding that the statutory requirement for clearing conditions was previously one year, but was recently amended to be two years.

Member Beauregard noted that he did not see the driveway on the submitted sketch and questioned why these applications were brought to the Committee without the inclusion of the driveway, considering the comments from the Engineering Technologist.

Mr. Roome responded that this issue was identified during the circulation of this application, wherein the Engineering Technologist found old permits issued to the subject property which show where the driveway was supposed to be installed.

Member Beauregard asked how far away the driveway is from the intersection, and whether it is less than eight metres.



Mr. Roome responded that he does not have a written record of the distance, but he believes that the Engineering Technologist mentioned the distance is about four metres. Mr. Roome offered to follow up with the Engineering Technologist but added that the bottom line is the requirement is eight metres and the subject property does not currently meet this requirement.

Mr. Chair proposed that if the subject property is in violation of the Zoning By-law, then staff should be able to remedy the situation now under the authority of the *Planning Act*. He further clarified that the two-year condition would be imposed for the purpose of the severance, but the by-law violation could be remedied before that.

Mr. Roome stated that in his opinion, the best way to resolve the by-law violation is to make it a condition of the consent because it will motivate the applicant to remedy the violation to get their consent granted. Mr. Roome clarified that the violated by-law is a Public Works by-law, not the Zoning By-law. He states the best way that the Planning Division could ensure this violation is remedied is by adding it to the list of conditions for consent, because if the applicant wants their certificate of consent issued quickly, they will remedy the violation quickly.

Mr. Chair asked if there are any other comments or questions.

Mr. Emonds asked if City staff would be able to provide him with the paperwork which shows the driveway plan that was previously approved, adding that he assumes the approved driveway plan would have provided adequate parking for the subject property.

Mr. Roome responded that the parking was proposed in a manner which did not meet the by-law, continuing that staff would be able to provide the applicant with the sketches that were submitted with the original permit application.

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

That consent application B02-23-PC be **granted** subject to the following conditions:

1. That the applicant provides the Secretary-Treasurer with the deeds in triplicate for the conveyance of the subject parcel or a registrable legal description of the subject parcel, together with a paper copy and electronic copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.
2. That a final certification fee of \$231 payable to the City of Port Colborne is submitted to the Secretary-Treasurer.
3. That the applicant provide a revised grading plan that includes the concrete walkways, air conditioners, entrances to the buildings and driveways, to the satisfaction of City Staff.
4. That the applicant revise the driveway entrance to meet the requirements of By-law 1117/64/81.



5. That the applicant provide a plan showing the existing sewer laterals will be wholly contained on each parcel. In the event that they are not, an easement may be required.
6. That minor variance applications A02-23-PC and A03-23-PC be granted.
7. That all conditions of consent be completed by January 18th, 2025.

For the following reasons:

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

Motion: Dave Elliott

Seconded: Eric Beauregard

Carried: 5-0

That minor variance application A02-23-PC be **granted** for the following reasons:

1. **The application is minor in nature** as the decrease in interior side yard setback and lot area would still provide enough space for the existing fourplex and enough amenity space for its occupants, while also maintaining similar lot sizes to neighbouring parcels.
2. **It is appropriate for the development of the site** as the development is existing, located in a suitable location on the site, and fourplexes are permitted within the R3 zone.
3. **It is desirable and in compliance with the general intent and purpose of the Zoning By-Law** as the proposal meets the majority of the R3 setback and lot coverage requirements, and the existing fourplex provides adequate parking and amenity space.
4. **It is desirable and in compliance with the general intent and purpose of the Official Plan** as fourplexes are permitted in the Urban Residential designation established in the Official Plan.

Motion: Dave Elliott

Seconded: Eric Beauregard

Carried: 5-0

That minor variance application A03-23-PC be **granted** for the following reasons:

1. **The application is minor in nature** as the decrease in interior side yard setback and lot area would still provide enough space for the existing fourplex and enough amenity space for its occupants, while also maintaining similar lot sizes to neighbouring parcels.
2. **It is appropriate for the development of the site** as the development is existing, located in a suitable location on the site, and fourplexes are permitted within the R3

zone.

3. **It is desirable and in compliance with the general intent and purpose of the Zoning By-Law** as the proposal meets the majority of the R3 setback and lot coverage requirements, and the existing fourplex provides adequate parking and amenity space.
4. **It is desirable and in compliance with the general intent and purpose of the Official Plan** as fourplexes are permitted in the Urban Residential designation established in the Official Plan.

Motion: Dave Elliott

Seconded: Eric Beauregard

Carried: 5-0

## 7. Other Business

Mr. Chair addressed the proposed 2023 Committee of Adjustment hearing schedule which was provided to the Committee for approval, noting that meetings on this proposed schedule will happen on the second Wednesday of every month at 6:00 p.m.

That the 2023 Committee of Adjustment hearing schedule be approved by the Committee of Adjustment.

Motion: Gary Bruno

Seconded: Angie Desmarais

Carried: 5-0

## 8. Approval of Minutes

That the minutes from the November 9, 2022, Committee of Adjustment hearing be approved.

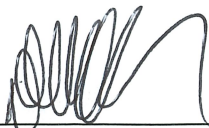
Motioned: Gary Bruno

Seconded: Dave Elliott

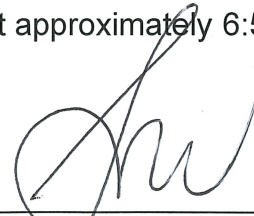
Carried: 5-0

## 9. Adjournment

There being no further business, the hearing was adjourned at approximately 6:55 pm.



Dan O'Hara, Committee of Adjustment Chair



Diana Vasu, Secretary-Treasurer