



**Application A08-23-PC**

**March 13, 2023**

**IN THE MATTER OF** the *Planning Act, R.S.O., 1990, c.P.13*, as amended and Section 6.3 (e) 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 31 & 32 Registered Plan Number 835, in the City of Port Colborne, located in the Second Density Residential (R2) zone, municipally known as 19 Dolphin Street.

**AND IN THE MATTER OF AN APPLICATION** by the agent John Ikola, on behalf of the applicant Frank Steven Hoffman 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 side yard setback for Part 4 to facilitate 2 concurrent consent applications (B03-23-PC and B04-23-PC), notwithstanding the following:

1. That a minimum side yard setback of 0.68m be permitted, whereas the minimum permitted side yard setback is 1m.

That minor variance application A08-23-PC be **granted** for the following reasons:

1. **The application is minor in nature** as the decreased side yard setback is necessary to ensure that the driveway of 19 Dolphin Street is entirely contained within the property boundaries.
2. **It is appropriate for the development of the site** as the proposed lot boundary adjustment, in conjunction with applications B03-23-PC and B04-23-PC, will address the encroaching dwelling of 19 Dolphin Street over the property line of 21 Dolphin Street and thus resolve a lot line dispute. The reduced setback will also ensure that the gravel driveway of 19 Dolphin Street is entirely located within its property boundaries.
3. **It is desirable and in compliance with the general intent and purpose of the Zoning By-Law** as interior side yard setback requirements are meant to ensure adequate spacing between dwellings; both dwellings are existing and the spacing between them is not proposed to be reduced. The Engineering Technologist has no concerns with the drainage arising from the proposal side yard setbacks, which is another intent of side yard setbacks.
4. **It is desirable and in compliance with the general intent and purpose of the Official Plan** as the Official Plan permits residential uses and boundary adjustments in the Highway Commercial designation.

**NOTE: No public comments were received during the decision-making process.**

**DATED AT PORT COLBORNE this March 8, 2023.**

**DECISIONS SIGNED:**

<b>"Dan O'Hara"</b>		<b>"Dave Elliott"</b>	<b>"Eric Beauregard"</b>	<b>"Gary Bruno"</b>
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 28, 2023**

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