



Application A09-23-PC

April 18, 2023

IN THE MATTER OF the *Planning Act, R.S.O., 1990*, c.P.13, as amended and Section 3.7 (b), 3.11.1 (a), 3.12 (a) (ii), and 24.3 (g) the City of Port Colborne Zoning By-law 6575/30/18, as amended;

AND IN THE MATTER OF the lands legally known as Concession 2 Part of Lot 24, in the City of Port Colborne, located in the Highway Commercial (HC) zone, municipally known as 401 Main Street East.

AND IN THE MATTER OF AN APPLICATION by the agent Amritpal Bansal, on behalf of the applicant 2472131 Ontario Inc. 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 driveway width, rear yard setback, landscape buffer and setback of a drive-thru to a residential zone, notwithstanding the following:

1. That a minimum driveway width of 6.29m be permitted, whereas 7.5m is required.
2. That a minimum rear yard setback of 2.46m be permitted, whereas 5m is required.
3. That a minimum landscape buffer of 0m be permitted along the northerly property line, whereas 3m is required.
4. That a minimum landscape buffer of 1.14m be permitted along the southerly property line, whereas 3m is required.
5. That a minimum landscape buffer of 1.67m be permitted along the westerly property line, whereas 3m is required.
6. That a 1.14m setback from a drive-thru to a residential zone be permitted, whereas 7.5m is required.

That minor variance application **A09-23-PC** be **granted** for the following reasons:

1. **The application is minor in nature** as the decreased driveway width would allow for appropriately sized parking stalls, the reduced landscape buffer would increase the parking and drive-thru safety while potential nuisances would be mitigated through site plan requirements, the reduced rear yard setback facilitates an appropriate fire route, and the reduced setback of a drive-thru to a residential zone would reduce traffic congestion on the site.
2. **It is appropriate for the development of the site** as the variances are being requested to accommodate a permitted use on the subject property and are required to reduce traffic congestion and ensure that structures on the site are adequately spaced.
3. **It is desirable and in compliance with the general intent and purpose of the Zoning By-Law** the proposal complies with the purpose of the provisions from which relief is being requested, ensuring that there will not be a negative impact on traffic safety, fire and emergency servicing, nor neighbouring properties.
4. **It is desirable and in compliance with the general intent and purpose of the Official Plan** as commercial uses are permitted in the Highway Commercial designation established in the Official Plan.

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

DATED AT PORT COLBORNE this 12th day of April 2023.

DECISIONS SIGNED:

	"Angie Desmarais"	"Dave Elliott"		"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:

May 2nd, 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