



Application A10-23-PC

May 12, 2023

IN THE MATTER OF the Planning Act, R.S.O., 1990, c.P.13, as amended and Sections 2.22 (a) and 17.5 (f) of the City of Port Colborne Zoning By-law 6575/30/18, as amended;

AND IN THE MATTER OF the lands legally known as Concession 3 Part of Lot 11, in the City of Port Colborne, located in the Agricultural (A) zone, municipally known as 2710 Brookfield Road;

AND IN THE MATTER OF AN APPLICATION by the applicants Catherine, David, Tyler, and Samantha Melnike 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 minimum distance to adjacent dwellings for the purpose of operating a dog kennel, notwithstanding the following:

1. That a minimum distance of a structure to a municipal drain of 8.9m be permitted, whereas 10m is required.
2. That a minimum distance to adjacent dwellings of 143m be permitted, whereas 160m is required.

That minor variance application **A10-23-PC** be **granted** for the following reasons:

1. **The application is minor in nature** as the decreased setback from a municipal drain would allow the existing structure, which was constructed before the zoning by-law provisions were in effect, to be brought into conformity with the by-law, and the decreased setback to an existing structure is minor and measures will be taken to mitigate noise concerns.
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 convert an existing structure into a dog kennel.
3. **It is desirable and in compliance with the general intent and purpose of the Zoning By-Law** as the noise mitigation measures will preserve the intent and purpose of the required setback of the kennel from the dwelling, and the setback to a municipal drain intends to ensure that structures are set back far enough from the drain for maintenance, while the Drainage Superintendent has confirmed that all maintenance work on the drain is done on the south side of the drain and thus the proposal will not impact future maintenance.
4. **It is desirable and in compliance with the general intent and purpose of the Official Plan** as dog kennels are permitted in the Agricultural designation established in the Official Plan.

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

DATED AT PORT COLBORNE this 10th day of May 2023.

DECISIONS SIGNED:

"Dan O'Hara"	"Angie Desmarais"	"Dave Elliott"	"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:

[May 30th, 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