



Committee of Adjustment - Notice of Decision -

Application B12-23-PC

August 14, 2023

IN THE MATTER OF the Planning Act, R.S.O., 1990, c.P.13, Section 53 (1).

AND IN THE MATTER OF the lands legally known as Concession 2 Lot 26 Registered Plan 59R12304 Part of Lot 3, formerly in the municipality of Humberstone, in the City of Port Colborne, located in the First Density Residential (R1) zone and the Residential Development (RD) zone, municipally known as 194 Chippawa Road.

AND IN THE MATTER OF AN APPLICATION by the agent Barbara Evangelista on behalf of the owner, Jason Evangelista, for consent to sever for the purpose of re-creating two separate lots which have merged. The subject parcels are shown as Parts 1 and 2 on the proposed sketch, where Part 1 is to be severed for future residential use and Part 2 is to be retained for an existing residential use.

That consent application **B12-23-PC** be **denied** for the following reasons:

The proposed severance does not appear to have regard for the adequate provision and efficient use of sewage, water, and waste management systems, which are matters of provincial interest as defined under Section 2 of the Planning Act. The result is that the application is premature for the development of the area as the site would not have immediate access to servicing and the applicant has not provided staff with a plan to extend services to the site. Furthermore, while legal access is provided to the property via an easement over Hubbard Drive, the easement does not provide for the installation of services, only ingress and egress of the parcel; therefore:

The application **does not** conform to the Planning Act, Provincial Policy Statement, Growth Plan for the Greater Golden Horseshoe, Niagara Official Plan, and Official Plan as the proposal does not have regard to matters of provincial interest, including adequate servicing to the property.

NOTE: Written and oral comments were received and influenced the decision-making process.

DATED AT PORT COLBORNE this 9th day of August 2023.

DECISIONS SIGNED:

Signature of Committee Chair	Signature of Committee Member	<u>"Dave Elliott"</u> Signature of Committee Member	Signature of Committee Member	<u>"Gary Bruno"</u> 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:

September 3, 2023

The Decision of the Committee of Adjustment, when not appealed, does not become final and binding until **20 days** from the mailing 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