CORPORATION OF THE CITY OF PORT COLBORNE
COMMITTEE OF ADJUSTMENT MINUTES
6:30 p.m., Tuesday, June 14th, 2011

MINUTES

Members Present:  Dan O’Hara, Gary Bruno, Bea Kenny, Dave Elliott, Bill Steele

Staff Present:  Heather Mahon, Secretary/Treasurer

1. The meeting was called to order at approximately 6:30pm. by the Chair Dan O’Hara.

2. Disclosures of Interest:

   Gary Bruno declared a conflict of interest for application A10-11-PC 36 Rosemount as he is a nearby resident.

3. Request for Deferrals or Withdrawals of Applications:

   Nil.

4. (i) Application:  A09-11-PC
   Action:  Minor Variance
   Applicant:  Gary & Diane Stemerdink
   Owner:  Gary & Diane Stemerdink
   Location:  1637 Firelane 2

   The Secretary/Treasurer read the correspondence received from the appropriate agencies.

   Diane Stemerdink addressed the Committee and advised that she had no further comments to make. There was no further discussion.

   Application A09-11-PC

   THAT the application be GRANTED for the following reasons:

   1. Minor in nature as the proposed addition to the cottage and the detached garage with increased height on the existing laneway will not result in any adverse impacts to neighbouring properties.

   2. Appropriate for development of the site since the proposed addition to the cottage and detached garage will be located in appropriate areas onsite and many existing residential uses already exist on this laneway.
3. Desirable and in compliance with the general intent and purpose of the Zoning By-Law as the proposed cottage and detached garage are permitted uses in the LR and RD zones.

4. Desirable and in compliance with the general intent and purpose of the Official Plan as residential uses are supported in the Lakeshore Residential designation.

Motion: Bill Steele Seconded by: Bea Kenny Carried: 5-0

ii) Application: A10-11-PC
Action: Minor Variance
Applicant: Vishal Chityal
Owner: 1825081 Ontario Inc.
Location: 36 Rosemount

Gary Bruno left the meeting at approximately 6:44 pm.

The Secretary/Treasurer read the correspondence received from the appropriate agencies.

Mr. Chityal addressed the Committee. Mr. Chityal advised that he had no further comments but was willing to answer any questions.

Bill Steele questioned Mr. Chityal on the occupancy and whether the staffing requirements as noted by the Fire Department could be met. Mr. Chityal concurred and advised that there are new guidelines to meet evacuation requirements in the event of fire. A rating sheet will be used as a guideline and the Fire Marshall will do regular assessments in order to determine the safety requirements.

Bill Steele spoke on behalf of a neighbour who could not attend the meeting. Concern was expressed over vegetable thefts from their garden and urination by one of the residents who had wandered into their yard. Mr. Chityal was aware of the situation and assured the Committee that the particular gentleman had been spoken to. The matter has been dealt with and there have been no further incidents.

Bea Kenny echoed Bill Steele's concerns regarding staffing requirements and safety for the residents. She questioned whether they planned to fulfill the sprinkler requirements as requested by the Fire Department. Mr. Chityal said that he was hoping funding would be available for the sprinkling and that he will follow all the necessary requirements at the building permit stage.

Dan O'Hara questioned Mr. Chityal about the use of the 2nd storey and the egress. Mr. Chityal responded that use of the 2nd storey was the reason for the variance. In order to use the second storey, an egress needed to be provided. Dan O'Hara then discussed the requirements of the zoning bylaw and whether 28 beds would be sufficient. Mr. Chityal responded in the affirmative noting that
28 beds would be sufficient due to the staffing requirements. It was also noted that this was to be a home for independent living and individuals were allowed to leave the facility. Basically the facility contains apartment units and provides health related supervision to the residents.

Stephanie Colangelo of 38 Hampton addressed the Committee. Mrs. Colangelo stated that she has small children and for safety reasons she would like to see a fence put up. They have experienced problems with the residents wandering into their garage. She also expressed concern about an increase in traffic and whether her property taxes would go up. She questioned whether the residents go through a screening process.

Mr. Chityal responded that he will consider installing a fence. He noted that they have begun to make improvements and a fence may be something that they could do as well. He did not believe the taxes would go up for the residents in the area because of their property. If anything their property value would increase due to the improvements that have been made.

With regards to a screening process, Mr. Chityal confirmed that the residents are assessed on a risk assessment not only for the neighbours sake but for the residents themselves. He admitted some cases slip through the cracks but in the case of sex offenders the police are required to advise them. He noted that there are some privacy restrictions due to patient confidentiality but as far as safety goes, the neighbours need not be concerned.

Dan O’Hara responded to the concerns regarding traffic and noted that the applicant is not increasing the size or occupancy of the property. The existing rooms are being subdivided for privacy reasons and there would not be an increase in traffic. There was some discussion regarding the bylaw and the number of beds and rooms required. After a brief discussion the Committee was in agreement with the request for 28 beds and 14 bed units.

**Application A10-11-PC**

THAT the application be **GRANTED** for the following reasons:

1. Minor in nature as the increased number of bedroom units will not change the footprint of the existing building or create parking shortages and therefore, will not result in any adverse impacts to neighbouring properties.

2. Appropriate for development of the site since the residential retirement the footprint of the existing building.

3. Desirable and in compliance with the general intent and purpose of the Zoning By-Law as the proposed residential retirement home beds and bedroom units residential are a permitted use in the “R1-19” zone.

4. Desirable and in compliance with the general intent and purpose of the Official Plan as residential retirement homes are supported in the Urban
Residential designation.

Subject to the following condition:

1. That a letter of approval be obtained from Port Colborne Fire and Emergency Services.

Motion: Bea Kenny Seconded by: Bill Steele Carried: 4-0

iii) Application: A11-11-PC  Action: Minor Variance  Applicant: Chris Cristelli  Owner: Jeremiah Brockwell  Location: 112 Tennessee Avenue

Gary Bruno returned to the meeting at approximately 7:20 pm.

The Secretary/Treasurer read the correspondence received from the appropriate agencies.

Chris Cristelli addressed the Committee and advised that he had no further comments.

Dave Elliott questioned the separation distance from the pool to the garage and why the garage needed to be so big. Mr. Cristelli responded that they did leave some distance between the garage and the pool and noted that there was nothing in the bylaw pertaining to separation distances between garages and pools. He added that the owner wanted the extra size for storage of recreational vehicles. They have spoken to the neighbours and have not heard any objections.

Dan O’Hara expressed concern on whether they were planning on using the laneway as access to the garage. Mr. Cristelli concurred that there is access to the garage from the laneway but it is to be used for recreational vehicles and not as an extension to the driveway.

Discussion commenced on ownership of the laneway and it was noted that the laneway is owned by the individual property owners and not the City.

Terry Bysterbosch of 466 Sugarloaf Street addressed the Committee. Mr. Bysterbosch advised that he has lived at this address for 25 years and that it was Shoalts Construction who divided up the laneway. Mr. Bysterbosch expressed concern that if the laneway was to be used it would make a mess. Right now there is just grass and since they are at the end of the laneway they end up with ruts and a muddy road. Mr. Cristelli responded that the purpose of the garage was for storage of the applicant’s recreational vehicles only.

Discussion commenced regarding maintenance of the laneway. Bea Kenny noted that in another case all the neighbours got together and chipped in and put gravel on the laneway and maintained it themselves. The City does not want to
get involved with private laneway maintenance. Gary Bruno noted that the application before the Committee is in regards to increasing the accessory lot coverage requirements and not about the laneway access. If something happens in the future then the access will have to be dealt with. Dave Elliott questioned whether the height of the garage meets the requirement and Mr. Cristelli confirmed that it does.

**Application A11-11-PC**

**THAT** the application be **GRANTED** for the following reasons:

1. Minor in nature as the proposed garage will not result in any adverse impacts to neighbouring properties.
2. Appropriate for development of the site since the proposed garage will be located in an appropriate area onsite and is a compatible accessory residential use.
3. Desirable and in compliance with the general intent and purpose of the Zoning By-Law as the proposed garage is a permitted use in the R1 zone.
4. Desirable and in compliance with the general intent and purpose of the Official Plan as accessory uses are supported in the Urban Residential designation.

**Motion:** Bill Steele  **Seconded by:** Dave Elliott  **Carried:** 5-0

iv) **Application:** A12-11-PC  
**Action:** Minor Variance  
**Applicant:** Sophie Malcangi  
**Owner:** Crombie Property Holdings Ltd.  
**Location:** 287 West Side Road

The Secretary/Treasurer read the correspondence received from the appropriate agencies.

Sophie Malcangi addressed the Committee and advised that she had drawings available if the Committee would like to see them. She advised that they are creating a more modern look for the kiosk to coincide with the changes being made with the store renovations and their grand opening. There was no further discussion.

**Application A12-11-PC**

**THAT** the application be **GRANTED** for the following reasons:

1. Minor in nature as the existing sign, reduced number of parking spaces and the increased floor area of the kiosk will not negatively impact operation of the existing shopping centre or result in any adverse impacts to neighbouring properties.
2. Appropriate for development of the site since the sign, gas bar and kiosk are existing permitted uses and can be accommodated on the property.

3. Desirable and in compliance with the general intent and purpose of the Zoning By-Law as the proposed gas bar, kiosk and the existing sign are permitted uses in the “SC (Shopping Centre Commercial)” zone.

4. Desirable and in compliance with the general intent and purpose of the Official Plan as gas bars are supported in the Commercial Plaza designation.

Motion: Gary Bruno Seconded by: Bea Kenny Carried: 5-0

v) Application: B04-11-PC
Action: Consent
Applicant: Brian Sauve
Owner: Ted Pizzo
Location: 3436 Hwy 3 E

The Secretary/Treasurer read the correspondence received from the appropriate agencies.

Brian Sauve addressed the Committee. Mr. Sauve stated that he was surprised to learn of the Region’s and NPCA’s comments. He has tried to contact the NPCA but hasn’t been able to speak to them yet. He noted that he originally created the 1ha parcel to satisfy the Region. He has already been told by the Regional Health Inspector that they were satisfied with the lot. He expressed concern that even if he did make the lot 1.3ha whether he would still need to have the groundwater study done by the Conservation Authority.

Dan O’Hara advised that he has been in contact with the NPCA regarding their comments as this was news to him as well. He noted that another application was approved 1 km down the road which did not receive any comment from the Conservation Authority. He questioned whether their comments were based on an actual law or act and not just “guidelines”. He suggested that the application be deferred in order to be explored further by staff.

Gary Bruno noted that the rules have changed and if the applicant had gone ahead with the original consent he would not have to be here today. Mr. Sauve acknowledged that the lapse of the original consent application was his mistake.

Gary Bruno suggested that in speaking with the Region and the Conservation authority that he be sure they agree that the 1.3 ha will satisfy all their requirements. Dan O’Hara noted that the NPCA new guidelines will affect any new lot in the rural area.

Bill Steele questioned why the NPCA did not have these concerns with the original application. He was prepared to grant and approve the application so the applicant could move forward. The Secretary/Treasurer cautioned the Committee that if the application is granted at this time, the applicant may not be able to build due to restrictions imposed by the Region and the NPCA. Discussion
commenced on whether the applicant would be able to fulfill the conditions within the 1 year timeframe if the Consent was granted. Concern was expressed that the groundwater study could take longer than 1 year. After further discussion it was agreed to defer the application in order to give the applicant time to consult with staff as well as the Region and Conservation agencies for further guidance as to what type of studies and time frame would be required to create the lot.

**Application B04-11-PC**

**THAT** the application be **DEFERRED** until further notice

**Motion:** Bill Steele  
**Seconded by:** Gary Bruno  
**Carried:** 5-0

5. **OTHER BUSINESS**

Nil.

6. **Approval of Minutes**

**Motion:** Bill Steele  
**Seconded by:** Bea Kenny  
**Carried:** 5-0

7. **ADJOURNMENT:** There being no further business, the meeting was adjourned at approximately 8:25 p.m.