

December 3, 2019

Mrs. Nancy J. Bozzato, Secretary Treasurer
Committee of Adjustment
Town of Pelham
Fonthill, ON L0S 1E0

Re: Minor Variance Application A26/2019P
1611C Lookout Street, Pelham
Concession 7 Part of Lot 3 and Part 2 on RP 59R-15972
Roll No. 2732 020 010 01303

The subject land is located on the east side of Lookout Street, lying north of Marlene Stewart Drive, legally described above and known municipally as 1611C Lookout Street in the Town of Pelham.

The subject land is zoned 'Residential 1' (R1) in accordance with Pelham Zoning By-law 1136 (1987), as amended. The minor variance application requests relief from the following sections to construct a detached garage:

- **Section 6.1 c) "Maximum (accessory building) Height"** to permit a building height of 4.9m whereas the current max height is 3.7m.

Applicable Planning Policies

Provincial Policy Statement (PPS), 2014

The subject parcel is located in a 'Settlement Area' according to the Provincial Policy Statement (PPS). The PPS provides policy direction on matters of provincial interest related to land use planning and development, and sets the policy foundation for regulating the development and use of land.

Policy 1.1.3.1 states that settlement areas shall be the focus of growth and their vitality and regeneration shall be promoted.

Growth Plan for the Greater Golden Horseshoe (GGH) (2019)

This Plan informs decision-making regarding growth management and environmental protection in the GGH. The subject parcel is located within a 'Settlement Area' according to the Growth Plan.

No direct policies of the Growth Plan speak to uses such as accessory buildings or porches / decks.

Niagara Regional Official Plan (Consolidated, 2014)

The Regional Official Plan designates the subject parcel as 'Built-up Area' within the Urban Area Boundary.

Policy 11.A.2 states that the Region encourages the development of attractive, well designed residential development that:

- j) Creates or enhances an aesthetically pleasing and functional neighbourhood.

Pelham Official Plan (2014)

The Town Official Plan designates the subject land as ‘Urban Living Area / Built Boundary’.

Policy A2.3.2 Urban Character Objectives are to respect and enhance the character of existing residential neighbourhoods and ensure that all applications for development are physically compatible with scale of the surrounding neighbourhood.


Pelham Zoning By-law No. 1136 (1987)

The Zoning By-law identifies the subject parcel as ‘Residential 1’ (R1).

Section 6.1 Requirements for buildings and structures accessory to dwellings

- c) Maximum Building Height 3.7m
Request: 4.9m

The Committee of Adjustment, in Section 45 (1) of the *Planning Act*, may authorize a minor variance from the provisions of the by-law, subject to the following considerations:

Minor Variance Test	Explanation
<p>1. The variance is minor in nature.</p>	<p>The proposed accessory building height of 4.9m is minor given the semi-urban context, scale of the neighbourhood’s rear yards, building location and steep topography. The proposed garage would be located 10.57m from the rear lot line, this setback is larger than what is required for the dwelling which enjoys a 10.5m height limit. There exists some mature tree along the rear lot lines which help to buffer the proposed garage from the easterly neighbours (see Figure 1). These trees located sporadically along the subject lands and the parcels directly north (\pm 3m from the rear lot line), help buffer any unsightly views from the proposed garage but they also already have more of a shadow impact than the increased garage height could create.</p> <p><i>Figure 1: Subject lands as viewed from 68 Buckley Terrace</i></p> 

From the Department of



	No negative impacts are anticipated by the adjacent neighbours.
2. The variance is desirable for the appropriate development or use of the land.	<p>The proposed variance is desirable for the use of the land because it will provide enhanced storage and usability of the residential property, enhancing its usability for recreation and livability. While the detached garage requires relief from the maximum height provision, Planning staff are of the opinion there will be no material change in terms of land use desirability. It should also be noted that modest increases in accessory building heights have been very popular requests throughout the Town of Pelham in recent years.</p> <p>It is noted that the proposed accessory building is designed well enough to fit into the residential character of the neighbourhood and should complement the existing built form around it. Planning staff would suggest the inclusion of modest, symmetrical windows on the East building Elevation Plan, windows positioned near the ceiling to maintain privacy but to architecturally enhance the rear façade.</p>
3. The variance maintains the general intent and purpose of the Official Plan.	<p>The Official Plan does not speak to buildings accessory to residential dwellings but does encourage uses which are compatible with the neighbourhood character. There is room for improvement on the proposed detached garage by way of improved rear architectural openings and additional tree plantings.</p> <p>Regardless, Planning staff believe the proposed variance to increase the building height is not foreseen to compromise any policy objectives of the Official Plan.</p>
4. The variance maintains the general intent and purpose of the Zoning By-law.	<p>The size of the proposed detached garage's height at 4.9m is appropriate given the geography & topography of the subject lands and that of the neighbouring homes. The proposed location of the accessory building with a large rear yard setback minimizes / offsets the variation in building height, by mitigating what could have been an otherwise poor orientation of a building footprint if it were located at the default minimum 1.2m rear yard setback.</p> <p>Given the situational context, the added height will not adversely impact the residential nature of the surrounding lots or the open space areas of the subject lands as it complies with the lot coverage regulations and setbacks. Therefore, the variance maintains the intent of the Zoning By-law.</p>

On October 31st 2019, a notice was circulated to agencies directly affected by the proposed application including internal Town departments (i.e. Public Works, Building, etc.) and all assessed property owners within 60 metres of the property's boundaries.

To date, the following comments have been received:



- Public Works Department (November 19, 2019)
 - No comments.
- Building Department (November 20, 2019)
 - A separate building permit is required for the proposed detached garage.

Public correspondence summarized below:

- Comment – Objects because the proposed detached garage will look like a ‘wall’ from our backyard.
 - ✓ The proposed rear yard setback is 10.57m which is considerably larger than the 1.2m minimum setback required. The large rear yard setback would offset most, if not all impacts typically associated with larger building masses.
- Comment – Objects because the proposed detached garage will not be aesthetically pleasing to the Buckley Terrace homes.
 - ✓ The proposed location of the detached garage would still benefit from the inclusion of symmetrically proportioned windows near the top of the wall to ensure privacy is maintained but yet enhancing the structures aesthetic quality.
- Comment – Suggests moving the detached garage further west.
 - ✓ This would help reduce the footprint of the driveway, although the perspective difference as viewed from Buckley Terrace would be relatively minor given the proposed 10.57m setback and existing mature trees present.
- Comment – The granting of this zoning relief will set a precedent whereby the future residential properties to the north may exercise the same entitlement.
 - ✓ *Planning Act* decisions are not precedent setting, and each development is considered on a case-by-case basis.

Planning staff visited two neighbouring properties on Buckley Terrace to better understand the perspective from the rear yards down the hill. One of the abutting land owners to the east had not realized the applicant’s Site Plan proposed a larger 10.57m setback. After learning this, they were understandably relieved and simply suggested the addition of a couple new tree plantings to help screen the building’s mass further.

Planning Comments

Planning staff note that the property is 1951m² in land area and is located on the east side of Lookout Street, lying north of Marlene Stewart Drive in the northwest corner of the Fonthill *Urban Settlement Area*. The property is bounded by existing (& future) single detached dwellings on all sides save for a golf practice green to the west.

It is noted that the proposed 3-bay, detached garage (accessory building) does not appear to have a loft component as part of its design. It should be noted that considering the fairly large horizontal footprint of the building, paired with a traditionally pitched (8:12) gable roof likely contributes to the necessary height of the structure. Most of the general public would rather not build a flat roof for a residential accessory building as they can be expensive, are less common and come with different long term maintenance requirements.

The subject land is rather large for an urban lot at 0.2 hectares, and it is capable of supporting the footprint of the proposed garage together with it’s added height.



The proposed Site Plan indicates a rear yard setback of 10.57m. This setback exceeds the 7.5m minimum setback required for the principle dwelling which could hypothetically be built as tall as 10.5m, as-of-right. The taller accessory building in this situation is relatively minor in nature given the size of the subject lands and the existing vegetation surrounding the lands (Figure 2) which help act as a natural buffer between the flanking residences below the hill to the east fronting Buckley Terrace.

Figure 2: (left) View from approximate location of proposed detached garage looking east towards Buckley Terrace. (right) View from 62 Buckley Terrace looking west to the subject lands.



Planning staff suggest the inclusion of modest, symmetrical proportioned windows on the East building Elevation Plan, windows positioned near the ceiling will maintain privacy from overlook but will help architecturally enhance the rear façade. Planning staff are of the opinion the requested minor variance is minor in nature and that no land use compatibility issues will arise as a direct result of this development being approved. The applicant is advised that a separate building permit is required for the construction of the accessory building.

Planning staff is of the opinion that the application meets the four minor variance tests laid out by the *Planning Act*. The application is consistent with Provincial policies, the Regional Official Plan, and conforms to the general intent of the Town's Official Plan and Zoning By-law.

The authorization of the minor variance is not expected to generate negative impacts for adjacent uses or the community at large. Consequently, Planning Staff recommend that application number A26/2019P be **approved** subject to the following:

THAT the applicant

- Shall within 6 months from the date of this decision, or prior to building permit, plant a minimum of two (2) medium or large caliper trees between the rear lot line and proposed detached garage. One tree shall be located north of, and the other south of the existing rear yard tree (which shall remain), they shall be equally spaced from the existing tree and their respective side lot lines, while not impacting any drainage swales and to the satisfaction of the Director of Community Planning & Development.

Prepared by,



Curtis Thompson
Planner, B.URPI

Approved by,



Barb Wiens, MCIP, RPP
Director, Community Planning & Development