

**Meeting #:** 08/2019  
**Date:** Tuesday, August 13, 2019  
**Time:** 4:00 pm  
**Location:** Town of Pelham Municipal Office - Council Chambers  
20 Pelham Town Square, Fonthill

**Members Present** Bill Sheldon  
John Klassen  
Sandra Marsh

**Staff Present** Nancy Bozzato  
Sarah Leach

**Others Present** Applicants, Authorized Agents and Interested Citizens

**1. Attendance**

Applicants, agents and interested parties.

**2. Call to Order, Declaration of Quorum and Introduction of Committee and Staff**

Noting that a quorum was present, Chair Sheldon called the meeting to order at approximately 4:00 pm. The Chair read the opening remarks to inform those present on the meeting protocols and he introduced the hearing panel and members of staff present.

**3. Disclosure of Pecuniary Interest and General Nature Thereof**

There were no pecuniary interests disclosed by any of the members present.

**4. Requests for Withdrawal or Adjournment**

In order to address concerns expressed by the Niagara Peninsula Conservation Authority, the applicant for A21/2019P - 594 River Road requested that this application be deferred to a later date.

**Moved By** Sandra Marsh

**Seconded By** John Klassen

**THAT application A21/2019P – 594 River Road be adjourned, sine die.**

## **5. Applications for Minor Variance**

### **5.1 A18/2019P - 241 Farr Street - Lot '2'**

The applicant, noted the concern from a neighbor relating to the septic bed, has been addressed. He noted an adjoining lot was recently approved, and also a French drain which has proven adequate, and this is proposed for this specific lot. He suggested that the house proposed on this site is well suited to the site.

A member noted that the drain design has been prepared by an Ontario Land Surveyor, whereas an engineered design may be more suitable, and it was questioned if an engineer has had any feedback as to whether the proposal will be suitable. Mr. Hyde, agent, was present and advised that they considered bringing an Engineer for review however they are comfortable that the proposal will be suitable. He noted that the Director of Public Works will need to be satisfied. The Member again advised that he would be more confident if there were an Engineer's approval. Mr. Hyde advised that the area being noted as a pond, is not one that has fish and is more of a seasonal water collecting area, in the spring.

It was noted that the area showing like a pond is natural and it was questioned how deep this area gets. The applicant advised that the deepest he has seen was six to eight inches. He met with the Niagara Peninsula Conservation Authority although this is not within their screening area. They cleared the site immediately.

Mr. Hyde advised that water does not go through the property, but the entire field is not open water. The applicant advised that when he walked the site with the Conservation Authority, the site was dry. He indicated that the lands are dry at this point in time as well, and although there is a depression on the site, it is not a flowing watercourse.

The Chair noted that if the water flows north and the water course from the south east is man made to drain agricultural fields

The applicant suggested this is a natural swale. In the spring, the water may swale and travel but it is very limited, and again he confirmed this with the Conservation Authority.

When asked if the applicant, as the builder, had any concern that a basement will be flooded once this dwelling is constructed, with the applicant advising that the property will be graded and he did not have concern about flooding. He explained how the swales will be constructed, as well as the French Drain, which has been very effective in this type of circumstance.

The applicant advised that these lots were created by Testamentary Devise and he questioned any requirement to obtain Conservation Authority approval, and it was noted that this land is outside of their jurisdiction.

On a neighbouring property, he was required to have Conservation Authority involvement and again he advised that they have no concerns.

**Moved By** John Klassen

**Seconded By** Sandra Marsh

**Application is made for relief of Section 7.4 (f) “Minimum Side Yard” to permit a north and south side yard of 5.5m whereas the by-law requires 9m, to facilitate the construction of a single detached dwelling and garage, is hereby: GRANTED.**

**The above decision is based on the following reasons:**

- 1. The variance is minor in nature.**
- 2. The general purpose and intent of the Zoning By-Law is maintained insofar as adequate spatial separation is maintained between the neighbouring parcels.**
- 3. The intent of the Official Plan is maintained.**
- 4. The proposal is desirable for the appropriate development and/or use of the land as it will encourage the dwelling to be located further away from the septic bed.**
- 5. This application is granted without prejudice to any other application in the Town of Pelham.**
- 6. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.**

The above decision is subject to the following conditions:

1. That all necessary building permits are required prior to construction commencing, to the satisfaction of the Chief Building Official.
2. Prior to the issuance of Building Permits written documentation be provided to the satisfaction of the Chief Building Official that:
  - a. The applicant must apply for a Driveway Entrance & Culvert Permit(s) prior to gaining driveway access from the Town right-of-way.
  - b. The applicant must submit a comprehensive Overall Lot Grading & Drainage Plan to the satisfaction of the Director of Public Works.
  - c. Provide a detailed *Lot Grading & Drainage Plan* with the Septic Permit Application and obtain approval of the same, to be issued by the Region of Niagara.

Carried

## 5.2 A19/2019P - 237 Farr Street Lot '3'

The applicant indicated that all comments are the same as those for the previous file.

**Moved By** Sandra Marsh

**Seconded By** John Klassen

**Application is made for relief of Section 7.4 (c) "Maximum Lot Coverage" to permit a maximum lot coverage of 12.02% whereas the by-law permits 10%, is hereby: GRANTED.**

The above decision is based on the following reasons:

1. The variance is minor in nature.
2. The general purpose and intent of the Zoning By-Law is maintained.
3. The intent of the Official Plan is maintained.

4. The proposal is desirable for the appropriate development and/or use of the land as it allows for larger footprint buildings to be erected and offer more design flexibility.
5. This application is granted without prejudice to any other application in the Town of Pelham.
6. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.

The above decision is subject to the following conditions:

1. That all necessary building permits are required prior to construction commencing, to the satisfaction of the Chief Building Official.
2. Prior to the issuance of Building Permits written documentation be provided to the satisfaction of the Chief Building Official that:
  - a. The applicant must apply for a Driveway Entrance & Culvert Permit(s) prior to gaining driveway access from the Town right-of-way.
  - b. The applicant must submit a comprehensive Overall Lot Grading & Drainage Plan to the satisfaction of the Director of Public Works.
  - c. Provide a detailed Lot Grading & Drainage Plan with the Septic Permit Application and obtain approval of the same, to be issued by the Region of Niagara.

Application is made for relief of Section 7.4 (f) "Minimum Side Yard" to permit a north side yard of 3.0m whereas the by-law requires 9m, to facilitate the construction of a single detached dwelling and garage, is hereby: **GRANTED**.

The above decision is based on the following reasons:

1. The variance is minor in nature.
2. The general purpose and intent of the Zoning By-Law is maintained.
3. The intent of the Official Plan is maintained.

4. The proposal is desirable for the appropriate development and/or use of the land it will encourage the dwelling to be located further away from the septic bed.
5. This application is granted without prejudice to any other application in the Town of Pelham.
6. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.

The above decision is subject to the following conditions:

1. That all necessary building permits are required prior to construction commencing, to the satisfaction of the Chief Building Official.
2. Prior to the issuance of Building Permits written documentation be provided to the satisfaction of the Chief Building Official that:
  - a. The applicant must apply for a Driveway Entrance & Culvert Permit(s) prior to gaining driveway access from the Town right-of-way.
  - b. The applicant must submit a comprehensive Overall Lot Grading & Drainage Plan to the satisfaction of the Director of Public Works.
  - c. Provide a detailed Lot Grading & Drainage Plan with the Septic Permit Application and obtain approval of the same, to be issued by the Region of Niagara.

Application is made for relief of Section 7.4 (f) "Minimum Side Yard" to permit a south side yard of 6.3m whereas the by-law requires 9m, to facilitate the construction of a single detached dwelling and garage is hereby: **GRANTED.**

The above decision is based on the following reasons:

1. The variance is minor in nature.
2. The general purpose and intent of the Zoning By-Law is maintained.
3. The intent of the Official Plan is maintained.

4. The proposal is desirable for the appropriate development and/or use of the land it will encourage the dwelling to be located further away from the septic bed.
5. This application is granted without prejudice to any other application in the Town of Pelham.
6. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.

The above decision is subject to the following conditions:

1. That all necessary building permits are required prior to construction commencing, to the satisfaction of the Chief Building Official.
2. Prior to the issuance of Building Permits written documentation be provided to the satisfaction of the Chief Building Official that:
  - a. The applicant must apply for a Driveway Entrance & Culvert Permit(s) prior to gaining driveway access from the Town right-of-way.
  - b. The applicant must submit a comprehensive Overall Lot Grading & Drainage Plan to the satisfaction of the Director of Public Works.
  - c. Provide a detailed Lot Grading & Drainage Plan with the Septic Permit Application and obtain approval of the same, to be issued by the Region of Niagara.

**Carried**

### **5.3 Applications for Consent**

#### **5.3.1 B7/2019P - 1146 Maple Street**

The applicant noted that she does not support the requirement for location of water and sanitary lateral lines for the existing dwelling. Mr. Klassen did not support removal of this condition, nor did Ms. Marsh. The applicant was unaware of the age of the dwelling. She noted that both parcels are two separate lots, but

this boundary adjustment is required to ensure that the barn does not straddle the boundary line. The driveway is also situated within the lands to be transferred.

**Moved By** John Klassen

**Seconded By** Sandra Marsh

**Application is made to seek consent to convey 426.9 m<sup>2</sup> of land, shown as Part 3 on the drawing submitted, being part of Lots 8 and 9, Registered Plan 703, in the Town of Pelham to merge with the abutting land (Part 1) for the continued use of a barn and single detached dwelling. Part 2 is being retained for a future residential building lot is hereby: GRANTED**

**This decision is based on the following reasons:**

- 1. The application conforms to the policies of the Town of Pelham Official Plan, Regional Policy Plan and Provincial Policy Statement, and complies with the Town's Zoning By-law.**
- 2. No objections to this proposal were received from commenting agencies or neighbouring property owners.**
- 3. This Decision is rendered having regard to the provisions of Sections 51(24) and 51(25) of the Planning Act, R.S.O., as amended.**
- 4. The Committee of Adjustment considered all written and oral submissions and finds that, subject to the conditions of provisional consent, this application meets Planning Act criteria, is consistent with the Provincial Policy Statement and complies with the Growth Plan, the Niagara Region Official Plan and the Town Official Plan.**

**The above decision is subject to the following conditions:**

**To the satisfaction of the Secretary-Treasurer**

- 1. Pursuant to Section 50(12) of the Planning Act, R.S.O. 1990, as amended, it is hereby stipulated that Section 50(3) or 50(5) shall apply to any subsequent conveyance of, or other transaction involving, the identical subject parcel of land. Therefore, once the subject parcel of land has been conveyed to the owner of the parcel abutting to the north**



**the subject parcel and the said abutting parcel shall merge in title and become one contiguous parcel of land. A solicitor's written undertaking shall be provided to the Secretary-Treasurer indicating that the necessary steps to implement the conveyance will be taken, together with the registrable legal descriptions of the subject parcel and the consolidated parcel.**

- 2. That the Secretary-Treasurer be provided with a registrable legal description of the subject parcel, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.**
- 3. That the final certification fee of \$387, payable to the Treasurer, Town of Pelham, be submitted to the Secretary-Treasurer. All costs associated with fulfilling conditions of consent shall be borne by the applicant.**
- 4. That final approval of all necessary minor variances be obtained.**

**To the Satisfaction of the Director of Public Works**

- 5. Ensures both lots are serviced with individual 20 mm Ø water service and 125 mm Ø sanitary sewer laterals in accordance with Town standards. Installation of any missing services will require Temporary Works Permits obtained through the Public Works department. If existing services are proposed for reconnection, such services shall be inspected by Town staff to ensure satisfactory condition prior to connection. Temporary Works Permit(s) will be required and the applicant shall bear all costs associated with these works.**
- 6. Submit a drawing indicating the location of the individual water service and sanitary lateral for both lots to confirm no services branch from, or through the proposed lot lines to other lands, and from or through the remnant parcel to other lands. Locate cards for both lots shall be submitted after service installation.**
- 7. Submits a comprehensive Lot Grading & Drainage Plan for both parcels demonstrating that the drainage neither relies, nor negatively impacts neighbouring properties, and that**

all drainage will be contained within the respective lots, to the satisfaction of the Director of Public Works.

8. Obtain approval for a Driveway Entrance & Culvert Permit from the Public Works department, in accordance with Town standards. The applicant shall bear all costs associated with these works.

Carried

### **5.3.2 A20/2019P - 1146 Maple Street**

**Moved By** Sandra Marsh

**Seconded By** John Klassen

**Application is made for relief of Section 9.2 (b) “Minimum Lot Frontage” to permit a minimum lot frontage of 17m whereas 18m is required, is hereby: GRANTED.**

**The above decision is based on the following reasons:**

1. The variance is minor in nature given the surrounding area; smaller lot sizes are increasingly becoming common.
2. The general purpose and intent of the Zoning By-Law is maintained.
3. The intent of the Official Plan is maintained.
4. The proposal is desirable for the appropriate development and use of the land as the narrower frontage will help preserve the existing barn.
5. This application is granted without prejudice to any other application in the Town of Pelham.
6. No objections were received from commenting agencies or abutting property owners.
7. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.

**The above decision is subject to the following conditions:**

- 1. That the approval of the minor variance is subject to Consent File B7/2019P obtaining final approval.**

**Carried**

**5.4 A21/2019P - 594 River Road**

This application was adjourned sine die.

**6. Minutes for Approval**

None.

**7. Adjournment**

**Moved By** John Klassen

**Seconded By** Sandra Marsh

**BE IT RESOLVED THAT this Meeting of the Committee of Adjustment Hearing be adjourned until the next regular meeting scheduled for September 10th, 2019 at 4:00 pm.**

**Carried**

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Bill Sheldon, Chair

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Secretary-Treasurer, Nancy J. Bozzato