

January 14, 2020

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

Re: Minor Variance Application A29/2019P
20 Alan Crescent, Pelham
Lot 18, Plan 721
Roll No. 2732 030 005 09900

The subject parcel, shown as Part 2 on the attached sketch, has \pm 28.4m of frontage on the southwest corner of Elizabeth Drive and Alan Crescent, legally described above, 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:

- **Section 13.2 (d) "Minimum Front Yard"** to permit a front yard of 6.19m, whereas 7.7m is required.
- **Section 13.2 (e) "Minimum Interior Side Yard"** to permit an interior side yard of 1.2m, whereas 1.8m is required;
- **Section 13.2 (g) "Minimum Rear Yard"** to permit a rear yard of 6.48m, whereas 7.5m is required.

The variances are required to legalize the remnant lot and its existing single detached dwelling resulting from the proposed severance (B11/2019P).

Note: Files A28/2019P & B11/2019P are being considered concurrently.

Applicable Planning Policies

Provincial Policy Statement (PPS) (2014)

The Provincial Policy Statement (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. The PPS provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment.

Section 3 of the *Planning Act* requires that decisions affecting planning matters "shall be consistent with" policy statements issued under the *Act*. The PPS recognizes the diversity of Ontario and that local context is important. Policies are outcome-oriented, and some policies provide flexibility provided that provincial interests are upheld. PPS policies represent minimum standards.

The subject land is located in a 'Settlement Area' according to the PPS. Policy 1.1.3.1 states that settlement

areas shall be the focus of growth and their vitality and regeneration shall be promoted.

Policy 1.1.3.3 states municipalities shall identify appropriate locations and promote opportunities for intensifications where this can be accommodated taking into account existing building stock and the availability of suitable existing infrastructure and public service facilities.

The Niagara Region Official Plan prescribes an annual residential intensification rate of 15% for all lands within Pelham's *Urban Settlement Areas*, this policy target is also reflected in the Pelham Official Plan.

Policy 1.1.3.4 states appropriate development standards should be promoted which facilitate *intensification*, *redevelopment* and compact form, while avoiding or mitigating risks to public health and safety.

The proposed minor variance application has been submitted to seek relief from some zoning provisions in order to legalize the proposed retained lot within the R1 zone regulations.

Policy 2.6.2 states that development and site alteration shall not be permitted on lands containing archaeological resources or archaeological potential unless the resources have been conserved. The Town's Heritage Master Plan identifies this area as having high archaeological resource potential, therefore an Assessment and Ministry Clearance is required as a condition of approval.

The proposed development seeks to increase the residential housing supply within the *Urban Settlement Area* boundary of Fonhill by adding one additional dwelling unit. Infill development is an acceptable form of *intensification* so long as new development is compatible in nature, is compact, avoids adverse impacts to provincial interest, public health, safety and the quality of the human environment. Planning staff are of the opinion the requested zoning relief is consistent with the PPS and promotes appropriate development standards that help facilitate compact form and *intensification*.

Growth Plan for the Greater Golden Horseshoe (2019)

This Plan informs decision-making regarding growth management and environmental protection in the Greater Golden Horseshoe (GGH). All decisions made after May 16, 2019 that affect a planning matter will conform with this Growth Plan, subject to any legislative or regulatory provisions providing otherwise. The policies of this Plan take precedence over the PPS to the extent of any conflict.

The subject parcel is located within a 'Settlement Area' according to the Growth Plan. Guiding principles regarding how land is developed:

- Support the achievement of *complete communities* to meet people's needs through an entire lifetime.
- Prioritize *intensification* and higher densities to make efficient use of land and *infrastructure*.
- Support a range and mix of housing options, including second units and *affordable* housing, to serve all sizes, incomes, and ages of households.
- Provide for different approaches to manage growth that recognize the diversity of communities in the GGH.
- Integrate climate change considerations into planning and managing growth.

Policy 2.2.1 Managing Growth – 2. Forecasted growth to the horizon of this Plan will be allocated based on the following:

- a) the vast majority of growth will be directed to *settlement areas* that:
 - i. have a *delineated built boundary*;
 - ii. have existing municipal water / wastewater systems; and
 - iii. can support the achievement of complete communities.

Complete Communities are defined as mixed-use neighbourhoods or other areas within a Town that offer and

support opportunities for people of all ages and abilities to conveniently access most of the necessities for daily living, including an appropriate mix of jobs, local stores, and services, a full range of housing, transportation options and *public service facilities*. *Complete communities* may take different shapes and forms appropriate for their contexts.

Policy 2.2.2 Delineated built-up areas – states that when the next *municipal comprehensive review* is approved and in effect, the applicable minimum intensification for Niagara is 50% of all residential development annually. Until that time, the Region’s current annual minimum intensification target is 15% for the Town of Pelham.

Policy 2.2.6.2 Housing – states that notwithstanding policy 1.4.1 of the PPS (2014), in implementing policy 2.2.6.1, municipalities will support the achievement of *complete communities* by:

- a) planning to accommodate forecasted growth to this Plan’s horizon;
- b) planning to achieve the minimum intensification and density targets in this Plan;
- c) considering the range and mix of housing options and densities of the existing housing stock; and
- d) planning to diversify their overall housing stock across the municipality.

Ground-oriented residential dwellings are the predominant housing type in this Fonthill neighbourhood. Single detached dwellings are also the only permitted use under the R1 zone of the current Zoning By-law (1987).

The subject lands are located less than 1000 metres from Downtown Fonthill, various other commercial uses along Highway 20 West and three public elementary schools. This places it within the realm of the desirable ‘10-minute’ walking-shed neighbourhood. The local public high school is also only about 2 km west of the subject lands which can be travelled by bicycle in 10 minutes.

The proposal will facilitate the construction of one new single detached dwelling on a fairly large (1269 m²) residential lot in a more compact form that helps reduce the amount of under-utilized *urban land* within the Village of Fonthill. The proposed dwelling will also help contribute towards the municipal property tax base which helps towards maintaining linear infrastructure and *public service facilities*. The existing water and sanitary sewer mains already extend along the frontage of the subject lands but would be better utilized with additional building connections.

Regional Official Plan (Consolidated August 2014)

The Regional Official Plan designates the subject land as ‘Built-Up Area’ within the Urban Area Boundary.

Policy 4.G.6.2 indicates ‘Urban Areas’ will be the focus for accommodating the Region’s growth and development.

Policy 4.G.8.1 states *Built-Up Areas* will be the focus of residential intensification and redevelopment.

Regional staff did not object, nor request to be circulated the proposed applications as the development aligns with Provincial and Regional policies.

The proposed minor variance conforms to the Regional Official Plan because the lands are located within the *built-up* area which is the planned focus of residential intensification and redevelopment over the long term. The proposed dwelling, together with the required zoning by-law provisions is compatible with the existing surrounding neighbourhood from a land use, housing and urban design perspective.

Pelham Official Plan (2014)

The Town of Pelham Official Plan is the primary planning document that will direct the actions of the Town and shape growth that will support and emphasize Pelham’s unique character, diversity, cultural heritage and protect our natural heritage features.

The local Official Plan designates the subject land as 'Urban Living Area / Built Boundary'.

Policy A2.1.2 Natural Environment – states the natural environment objectives of this Plan are to make planning decisions that consider the health and integrity of the broader landscape as well as the long term and cumulative impacts on the ecosystem.

No *key natural heritage features* such as *Significant Woodlands, Provincially Significant Wetlands, highly vulnerable aquifers or valleylands* etc. are located near the subject lands.

Policy A2.2.2 Growth & Settlement – states that it is a goal of this Plan to encourage intensification and redevelopment within the *Urban Area* specifically in proximity to the Downtown.

The subject lands are less than 600 metres to Downtown Fonthill which positions it well within the admirable 10-minute walk shed.

Policy A2.3.2 Urban Character – stated objectives of this Plan include:

- To respect the character of existing development and ensure that all applications for development are physically compatible with the character of the surrounding neighbourhood.
- To encourage the intensification and use of the lands within the Fonthill Downtown core and to make every effort to improve its economic health by encouraging redevelopment and broadest mix of compatible uses.
- To maintain and enhance the character and stability of existing and well-established residential neighbourhoods by ensuring that redevelopment is compatible with the scale and density of existing development.
- To encourage the development of neighbourhoods which are compact, pedestrian-friendly and provide a mix of housing types.

The proposed minor variance would facilitate the construction of one new single detached dwelling in proximity to Downtown Fonthill. The neighbourhood character is one of predominantly ground-oriented residences (i.e. single detached) on large lots with lower pitched roof bungalows as the dominant built form along Elizabeth Drive. The nearest dwellings flanking from Highland Avenue consist of more variety in built form, that is there are more 1.5 and 2-storey dwellings scattered amongst some other bungalows. The proposed lot, seeks to maintain the key features and intent of the R1 zone which help provide a gradient mass between the flanking 2-storey dwelling at the west inward to the retain lot and neighbouring 1-storey bungalow neighbourhood.

Policy A2.5.2 Infrastructure – stated objectives of this Plan include maintaining existing infrastructure in a manner that is cost effective and contributes to the quality of life of citizens.

Policy A2.7.2 Cultural Heritage – states it is the Plan's objective to ensure that the nature and location of cultural heritage and archaeological resources are known and considered before land use decisions are made.

No Part IV designated heritage properties flank the subject lands and an archaeological clearance from the Ministry is required as a condition of severance approval.

Policy B1.1.1 recognizes the existing urban area of Fonthill and the role the Town will need to accommodate various forms of residential intensifications, where appropriate.

Policy B1.1.3 provides policy guidance and direction with respect to intensification proposals within the *Urban Living Area / Built Boundary*. While intensification opportunities are encouraged, proponents will be expected to demonstrate, that such proposals will be respectful of, compatible with, and designed to be integrated with

the neighbourhood where they're proposed.

In considering residential intensification proposals, the following criteria are applicable:

- a) Schedules A1 and A2 identify a number of areas that may be good candidates for residential intensification. This does not preclude consideration elsewhere in the *Urban Living Area* provided these sites abut arterial or collector roads or are located on a local road on a site that is no further than 100 metres from an intersection with a collector or arterial road;
 - ✓ The subject lands are not identified symbolically as a 'Potential Intensification Area' according to Schedule 'A1'. They are located just over 150 metres from Canboro Road, being the closest collector road.
 - ✓ Town Planning staff agree with the submitted Planning Justification Report in that the 100 metre linear distance reference is a rather acute test in most contexts and which can adversely impact an otherwise sound and appropriate redevelopment opportunity. It is certainly much more noteworthy upon true medium-high density proposals with significant transportation impacts, not low density single detached residences. The transportation rooted policy test is well-intended and an important factor as denser land forms should generally be located closer in proximity to major roads and amenities etc. for several reasons. However, understanding that, we've completely ignored the benefits associated with the 'walkable' neighbourhood which is the principle origin of these geographic tests. Specifically, the distance an average human can comfortably walk with 10 minutes. Empirically speaking, trips that are less than 1 km in distance are highly suited for most humans to manage by walking, with trips slightly longer more than manageable by bicycle or a short vehicle trip. It should be noted that the lack of sidewalks on Elizabeth Drive and Alan Crescent does not make this neighbourhood inherently un-walkable, or unsafe. With low traffic volumes and speeds, it is generally considered quite safe for people to walk within the travelled carriageway.
- b) Intensification and redevelopment proposals are encouraged to achieve a unit density and housing type that is in keeping with the character of the neighbourhood density;
 - ✓ The neighbourhood is predominantly single detached dwellings and the severance would yield one new single detached dwelling.
 - ✓ The existing residential density of the subject lands is 7.8 units / hectare, while the proposed severance would yield a density of 15.7 units / hectare. The neighbourhood density ranges up to 25 units / hectare mostly due to the townhouse development 200m east on Elizabeth Drive.
- c) Residential intensification and redevelopment proposals located on lands which abut local roads shall maintain the unit density and unit type of the surrounding neighbourhood, but may through a Zoning By-law Amendment, increase the unit density by up to 25% of the existing gross density of lands located within 300 metres of the site, provided the resultant development will be characterized by quality design and landscaping, suitable building setbacks, and further that parking areas and traffic movements will not negatively impact the surrounding neighbourhood from the perspectives of safety or neighbourhood character;
 - ✓ See comment above, the proposed zoning for the subject land (Part 2) seeks to legalize the existing dwelling (20 Alan Cr) on the reduced parcel size of the remnant lot.
 - ✓ There are no traffic and parking issues anticipated with this minor variance.
- d) Notwithstanding items (b) and (c), the creation of new freehold infill lots through the consent process, for ground-oriented detached dwellings, may be permitted provided the proposed lot and unit type is similar to and compatible with the established character of the street or neighbourhood where it is proposed. The Zoning By-law shall establish minimum lot area and frontages and minimum and/or maximum densities which are considered appropriate within the Urban Living Area designation;
 - ✓ The proposed use of the subject land is unchanged and is directly identical to that of the immediate neighbourhood, which is being a single detached dwelling.
 - ✓ Low density residential development within an existing low density residential neighbourhood is a compatible level of density as discussed in subsection b) above.
- e) The creation of accessory apartments and in-law suites within residential neighbourhoods is considered to be an appropriate form of residential intensification.

- ✓ The current R1 zoning does not permit second dwelling units nor has the applicant submitted a rezoning application requesting the additional permitted use.

In accordance with Provincial and Regional policy, the Town will accommodate at least 15% of projected housing growth, or about 300 residential dwelling units, within the existing built boundaries of Fonthill and Fenwick.

It is noted that the minor variance application seeks to legalize various yard setbacks that would contravene the default R1 zoning provisions if the proposed severance (B11/2019P) is approved. This application does not propose any new development on the remnant parcel (Part 2) or the existing dwelling. The proposed minor variance conforms with the Pelham Official Plan as it supports additional housing, appropriate lot geometry, good land use planning and is a compatible form of residential intensification especially in proximity to Downtown Fonthill.

Pelham Zoning By-law No. 1136 (1987), as amended

The subject land is currently zoned 'Residential 1' (R1) according to the Zoning By-law with one existing single detached dwelling situated on the land.

Section 13. – Regulations for dwellings permitted in the R1 zone:

d) Minimum Front Yard	7.7 m	Request-	6.19 m
e) Minimum Interior Side Yard	1.8 m	Request-	1.2 m
f) Minimum Rear Yard	7.5 m	Request-	6.48 m

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
1. The variance is minor in nature.	<p>The proposed reduced building setbacks in relation to the proposed reduced parcel size can still comfortably accommodate the existing dwelling while accommodating a new dwelling to the west. The amenity area is a considerably sized one in an L-shape configuration. The existing front yard is also very large and can serve as additional landscaped open space and maintains the setting of the existing home.</p> <p>The proposed variances will allow for the continued accommodation of the existing single detached dwelling on a relatively smaller parcel of land (836 m²). The variance is considered minor in nature and no adverse impacts are anticipated from the requested variances.</p>
2. The variance is desirable for the development or use of the land.	<p>Reducing the applicable building setbacks is desirable for the subject land because it will recognize the zoning shortfall and give legal status to develop the adjacent proposed lot (to the west) for residential infill use.</p> <p>Reducing the building setbacks is desirable for 20 Alan Crescent because it will legalize the existing dwelling once the boundary is adjusted via severance. No adverse impacts are anticipated as storm water runoff is required to be maintained within the property and not adversely impact any neighbours. Adequate open</p>

	space amenity area is also available for the occupants of the dwelling.
3. The variance maintains the general intent and purpose of the Official Plan.	<p>The proposed reduction in yard setbacks maintain the general intent of the Official Plan because it will help facilitate <i>intensification</i> and increase housing supply within the <i>delineated built-boundary</i> where underutilized lots (large open spaces fronting existing infrastructure) otherwise stood. The variance will aid in the gentle intensification of existing <i>Urban Settlement Areas</i> and in proximity to Downtown Fonthill (Policy A2.2.2).</p> <p>The reduced yard setbacks will also help facilitate the same principles of the Official Plan. Planning staff are of the opinion that the amended zoning provisions will not compromise any policy objectives of the Official Plan. A modest reduction in yard setbacks on the subject lands is not foreseen to negatively impact the neighbourhood character with respect to urban design and built form.</p>
4. The variance maintains the general intent and purpose of the Zoning By-law.	<p>The proposed reduction in yard setbacks is less than what is required by By-law but still includes ample space for building maintenance purposes, spatial separation between uses and adequate open space amenity areas as the Zoning By-law was intended. Legalizing the proposed setbacks will allow the ability for the existing dwelling to remain and allow the development of a new adjacent parcel which was otherwise a fairly large residential building lot. This added street presence addresses the public realm by providing <i>eyes-on-the-street</i> (improving natural neighbourhood surveillance of the street), and helps frame the streetscape in a more consistent fashion.</p> <p>The proposed variances maintain the intent of the Zoning By-law because adequate room is still available for open space / amenity area intentions and storm water runoff without unduly affecting any neighbours.</p>

Agency & Public Comments

On November 26, 2019 a notice of public hearing was circulated by the Secretary Treasurer of the Committee of Adjustment to applicable agencies, Town departments, and to all assessed property owners within 60 metres of the property's boundaries.

To date, the following comments have been received:

- Building Department (Dec 2, 2019)
 - No comments.
- Public Works Department (Jan 2, 2019)
 - See conditions.

Comments were received from many neighbouring residents which are summarized below. Note – the following summary is the same as consent file B11/2019P.

1. The 60 m (200') circulation of Hearing Notices is inadequate and Council should hear these applications, not the Committee of Adjustment.

- ✓ The *Planning Act* of Ontario provides planning authorities (municipal Council) with the legislative authority to appoint a Committee of Adjustment to hear certain types of *Planning Act* applications (i.e. consents & minor variances). These applications are deemed of a lower priority status by municipal Councils Province wide versus Official Plan Amendments, Zoning By-law Amendments and subdivisions etc.
 - ✓ Public Notice circulation requirements for Committee of Adjustment applications are prescribed under the *Planning Act*.
2. Allowing a new house on a smaller lot contradicts the original planning and character of the neighbourhood (i.e. Post WWII bungalows on large lots).
 - ✓ The existing neighbourhood was designed in an era where land resources were considered abundant and regard over future resource scarcity was of little importance. This is no longer the case. The requested variances will provide for compatible neighbourhood development.
 3. How can the original character, charm and feel of the neighbourhood be upheld?
 - ✓ The applicant has expressed the desire to build a bungalow for this reason exactly, which is likely the reason for the requested increase of lot coverage. However, since the Zoning By-law permits a 10.5m height limit as-of-right across all low density residential zones, there is no guarantee that a 2-storey dwelling could not be built on any property in this neighbourhood.
 - ✓ The applicant has requested a reduction of the front yard setback for Part 1 – this is meant to maintain a consistent building streetscape as the current exterior side yard setback required by the R1 zone is 5 metres. The adjacent dwelling to the west appears to have less than the 5m setback from Elizabeth Drive based on GIS parcel mapping.
 - ✓ One single detached residential lot in an existing single detached residential neighbourhood does help maintain the character, charm and feel of the neighbourhood pending appropriate urban design elements.
 4. The severance will devastate the existing residents and confuse potential buyers confused by the lack of homogeneity.
 - ✓ There is little evidence to support such a claim. Homogenous neighbourhoods actually have an extensive record of social dysfunction, particularly with respect to socioeconomic exclusion, unstable shifts in demographics which negatively affects public school enrollment among other institutions and commercial businesses. Reinvestment in existing neighbourhoods is generally considered a positive as it signals desirability. One new single detached dwelling in an existing low density residential neighbourhood will not cause ‘confusion’.
 5. There are already parking problems on Alan Crescent.
 - ✓ Parking issues appear to be a remote prospect in this neighbourhood (perhaps with the exception of the annual Summerfest weekend each summer). Most, if not all of the existing houses in the vicinity have in excess of 2-4 parking stalls per lot. On-street parking is also permitted and visibly abundant.
 6. This development will set a precedent.
 - ✓ Every *Planning Act* development application is considered independently on its own merits.
 7. How will (storm) drainage affect the neighbours?
 - ✓ A Grading & Drainage Plan is required as a condition of severance approval. At building permit, there is also a Grading Plan required for approval.
 8. The proposed lot would eliminate the garden yard of 20 Alan Crescent which contradicts the Town Beautification Committee’s statement on ‘enhancing visual appeal’ and ‘with respect to environmental stewardship’.
 - ✓ The remnant parcel (Part 2) would continue to be served by a sizeable L-shaped rear yard amenity area in addition to a very large front yard.
 - ✓ Accommodating residential housing growth within existing *urban areas* (intensification) is one of the most ecologically sound choices a municipality could undertake as it helps avoid premature urban settlement expansion to accommodate the same levels of growth. Intensification and redevelopment also utilize existing linear infrastructure and public service facilities.

9. Environmental degradation associated with tree removal, new hard surfaces, and waste created from the pool / shed removal.
- ✓ Environmental impacts are important and must also be considered at a high level. Prohibiting infill development because of micro-impacts associated with small lot development is not a zero-sum scenario. If the market demand warrants new home construction, then a house might instead be located near the edge of the Town's *urban settlement area* limits. The degree of environmental impacts associated with an exurban alternative can be argued as much more harmful. For example, new development on the periphery often requires the extension of brand new linear infrastructure to support the new development. Many more trees might need to be removed instead, and sometimes of a greater *ecological value*, and this type of development usually interferes more with the *ecological function of key natural heritage features* more than an intensification growth scenario. Intensification development not only better utilizes existing infrastructure but they're often situated closer to shopping areas, schools and *public service facilities* which translates into a reduced transportation impact, and thus an environmental one.
10. The proposal abuses the R1 zone requirements which were meant to protect the existing neighbourhood.
- ✓ Ironically, based on current lot sizes of Elizabeth Drive and Alan Crescent, the default R1 zone requirements would have yielded narrower frontages, smaller lots and more density.
11. Allowing intensification in an established R1 zoned neighbourhood reduces the potential for a healthy mix of housing options in Fonthill.
- ✓ The neighbourhood is actually characterised by R1, R2, RM1 and RM2 residential zoning as per Schedule 'A5' of the Zoning By-law (1987).
 - ✓ There is no evidence to support this claim.
12. Loss of views.
- ✓ Ontario Planning Tribunals have consistently deemed there to be no legal right to a view over the private property of others, unless only in special circumstances the proposed obstruction to such long established amenities is of such a magnitude as to cause an unacceptable adverse impact upon the visual enjoyment of the greater public. This proposal is not considered at risk of such level of harm to the neighbourhood or to conflict with the intent in this respect of the Official Plan and Zoning By-law. Furthermore, no increase in building height was requested.
13. Loss of privacy.

Figure 1 - View of subject lands from 11 Highland Avenue (submitted by neighbour), with superimposition.



- ✓ The degree of neighbour discomfort associated with a proposed development's potential for intrusive overlook into other's private amenity area is always difficult to measure, qualify and subjective by nature. Distasteful window alignments and openings in close proximity to another rear yard amenity area (or dwelling) is discouraged.
- ✓ Minor variance file A28/2019P seeks a reduction of the side yard building setback from 1.8m to 1.2m. As per the Ontario Building Code, the closer a structure gets to a property line, the

greater the restriction is in effect for the percentage of window openings permitted on that wall. It would seem that the developer would effectively, and voluntarily be limiting the number and size of permitted windows on the future west wall of the proposed house, in lieu of a 60 cm (2') encroachment.

14. Elizabeth Street has high traffic volumes. Was it not the Town's plan to omit sidewalks due to the large lawns, open space and long driveways?
 - ✓ Elizabeth Street is designated as a local road with low traffic volumes.
 - ✓ Planning staff do not know the Town's former rationale to omit installing sidewalks in several subdivisions over the last 60+ years. However, most often a lack of sidewalks has to do more with street design itself or even their cost. Specifically, narrow pavements with low traffic volume and slow vehicle speeds historically wouldn't warrant the inclusion of sidewalks. Though this practice has become frequently abandoned in modern development.
15. Properties should not change after development has taken place some 70 years ago.
 - ✓ Human settlements continue to evolve throughout the course of history. There has always been some degree of change to communities over time.
16. Assumes that the new house will be rented, and renters tend to not maintain property as well as owners.
 - ✓ Objection on the basis of tenure is a human rights matter which cannot be considered.
17. The 'back' of a house cannot be deemed the 'side' of a house to avoid the rules.
 - ✓ The realignment of the technical 'yards' originates from Section 5 of the Zoning By-law's Definitions, not the developer's strategy. The narrowest frontage is considered the 'front yard' by definition.
18. The rear yard of a house should not flank the side yard of another house.
 - ✓ This lot arrangement is widespread and can even be observed several times in this neighbourhood.
19. The proposal will destroy our rear yard privacy from its overlook. Any windows on the back or side of this house will allow residents to look over our fence.
 - ✓ The applicant has requested a reduction of the side yard setback from 1.8m to 1.2m (file A28/2019P). In accordance with the Ontario Building Code, buildings closely situated to a property line have very restricted permissible openings (windows), represented as a percentage of the wall face. By reducing the side yard setbacks, the new dwelling would actually be voluntarily limiting its potential for privacy overlook.
20. The proposal will have a detrimental effect on our property's value.
 - ✓ There is no evidence to support this. Redevelopment and reinvestment in neighbourhoods is generally associated with a positive impact on land values.
21. The size of the proposed lot (Part 1) is not consistent with the surrounding properties.
 - ✓ The proposed lot is marginally smaller than its immediate surroundings along Elizabeth Drive and Alan Crescent notwithstanding the townhouse development east on Elizabeth Drive and the smaller lots west on Highland Avenue
22. The new lot (Part 1) will have no yard or open space.
 - ✓ The default rear yard setback of 7.5m is being maintained. The Consent Sketch provided illustrates a building envelope based on the requested zoning setbacks. This does not necessarily represent the proposed footprint of a future dwelling.
 - ✓ It should also be noted that, in keeping with the character of the neighbourhood (1-storey bungalows), the proposed lot coverage of a bungalow is expected to be larger than that of a similar sized 2-storey dwelling to accommodate the same floor area, thereby directly impacting the size of open space.
23. People should not be allowed to apply for variances to Zoning By-laws.
 - ✓ The Ontario *Planning Act* provides the statutory authority for variances to municipal Zoning By-laws to be heard.
24. The developer has no intention of residing on either the retained, or severed lot.
 - ✓ Not relevant.

25. The new lot is not physically compatible with, nor maintains the character / stability of the neighbourhood. The appearance, layout, building footprint and overall proportion of building to open space, combined with tree removals will also impact the neighbourhood.
- ✓ The proposed lot geometry is rather traditional in shape for typical residential lots with a ± 14 m frontage and ± 30 m depth. One large tree would need to be removed, a second (closer to the street) may be able to be preserved depending on the driveway location and construction feasibility. New street tree(s) are suggested conditions of severance approval. A lot for one single detached dwelling in a mainly single detached residential neighbourhood is a compatible land use, as are most ground-oriented forms of housing.
26. The tree removal associated with the proposed lot may damage the roots of other mature trees on the Highland Avenue properties, leading to their decline. With no green screen, the intrusion of the new house will be worrisome.
- ✓ There appears to be one tree situated closely to the western lot line of the subject lands. It is unclear what property it is located on based on the survey sketch. The potential for root damage upon basement excavation is legitimate and should be avoided if at all possible.
27. Small lots produce no large trees and no biodiversity.
- ✓ The proposed rear yard is still capable of supporting larger caliper tree(s). Proper urban street trees can also grow quite large despite being constrained by gravel, and concrete.
 - ✓ A variety of native trees are not the only type of biodiversity as other types of native vegetation (shrubs, flowers etc.) can also support various types of wildlife in urban environments.
 - ✓ It should also be noted that urban infill / intensification is one of the best ways humans can ensure preservation of natural environments by avoiding unnecessary outwardly urban expansion which often threatens pristine natural heritage systems.
28. Provincial policies are general guidelines.
- ✓ Section 3 of the *Planning Act* requires that decisions affecting planning matters “shall be consistent with” policy statements issued under the *Act*. PPS policies are outcome-oriented, and some policies provide flexibility provided that provincial interests are upheld. PPS policies represent minimum standards.
 - ✓ All decisions made after May 16, 2019 that affect a planning matter will conform with this Growth Plan, subject to any legislative or regulatory provisions providing otherwise. The policies of this Plan take precedence over the PPS to the extent of any conflict.
29. The Planning Justification Report is biased.
- ✓ The report was authored by a *Registered Professional Planner* (RPP) in the Province of Ontario.
 - ✓ Section 2.1 of the Ontario Professional Planners Institute’s (OPPI) Professional Code of Practice states that “*members shall impart independent professional opinion to clients, employers, the public, and tribunals*”.
30. It’s inappropriate for the Planning Justification Report (PJR) to draw comparisons to the R2 zoned properties in close proximity.
- ✓ The PJR discusses existing development in the neighbourhood which is relevant.
31. The Planning Justification Report fails to mention the distance between the proposed building envelope and the adjacent dwelling located at 11 Highland Avenue which is 18.5 m.
- ✓ The PJR comments on the setbacks between the severed and remnant lot which is appropriate and consistent with standards of practice. There is no issue with the setback between dwellings.

Planning Staff Comments

The proposed minor variance application seeks zoning relief from three (3) specific yard setback requirements. Though these zoning requests are technically not required to facilitate the adjacent lot’s creation, (in lieu of removing the existing house), these yard setbacks are requested to legalize the existing dwelling’s position on the remnant lot and for its preservation.

Planning staff have reviewed the Planning Justification Report submitted by Upper Canada Consultants dated November 2019, and generally agree with its commentary.

A pre-consult was held with the applicant(s) of the property and staff from the Town and Niagara Region Planning & Development Services on June 20, 2019 to discuss the subject applications.

The subject lands are located on the southwest corner of Elizabeth Drive and Alan Crescent and is surrounded by single detached residential dwellings from all directions (Figure 2).

Figure 2: (Left - Subject lands as viewed from Elizabeth Drive) (Right – As viewed from Alan Crescent)



Planning staff visited the site and reviewed historic aerial photography to better understand the local context today and historically (Figure 3). Over the years, this neighbourhood has experienced little in the way of intensification except for a townhouse development 250 metres east. Given the proximity to Downtown Fonthill, commercial uses along Highway 20 West, public schools and the large lot sizes present – it would not be unreasonable to assume that there may be additional intensification pressures in the coming years or decades if population growth trends continue as forecasted.

At present, the immediate neighbourhood is not in the midst of any development projects. This area of central Fonthill, just west of Downtown is characterized by many large lot single detached residences, some smaller lots, townhouses and some commercial uses along the flanking arterial roads nearby.

Figure 3: Aerial imagery of the subject lands from 1954 – 2018



It is a well-accepted planning principle that all communities have a role to play in helping to manage population growth. Obviously *designated greenfield* areas such as East Fonthill will handle the majority of new housing demand locally and are consequently held to a considerably higher standard of planned density. However, *built-up* neighbourhoods (properties with existing development) are anticipated, and expected, to also contribute towards Pelham's overall background household growth. The Town's current Official Plan recognizes the Region's previous 25-year growth allocation originally planned to 2031. Niagara Region is currently undergoing their legislated *Municipal Comprehensive Review* as part of the Regional Official Plan update. The updated household growth to 2041 which were recently updated to incorporate the 2016 Census data and to reflect policy targets of the 2017 Growth Plan now yields a residential intensification share of at least 25% for the Town of Pelham.

The Official Plan recognizes that additional housing growth via residential intensification, especially in walkable neighbourhoods is an opportunity, and a way to achieve other important goals such as helping support the local business community, providing a diverse housing / demographic mix and maintaining existing infrastructure and neighbourhood vitality.

Planning staff have thoroughly read every piece of public correspondence which was supplied at the time of this report's writing. The comments are large but share many similar themes which were discussed in detail above. Some concerns are legitimately grounded in planning development such as change of neighbourhood character, loss of privacy / views / trees and concerns over possible impacts to existing patios and tree roots not slated for removal. Many other comments are outside of the scope of this application, not relevant (i.e. profit motives & rental housing tenure etc.), or are plainly exclusionary to new development in general. The latter themes are not able to be considered in the decision making process as a legislated approval authority under the *Planning Act*.

Planning staff is of the opinion that the proposal applies current planning and development goals dealing with appropriate infill development, making more efficient use of the existing urban lands, where suitable to do so. The proposed minor variance should not negatively impact the surrounding neighbourhood with regards to traffic, privacy and storm water runoff. The remnant lands will continue as a single detached residential use for the foreseeable future.

In Planning staff's opinion, the application is consistent with the PPS and conforms to Provincial, Regional, and local plans.

Planning staff recommend that minor variance file A29/2019P **be granted**.

Prepared by,



Curtis Thompson, B.URPI
Planner

Approved by,



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