

Committee of Adjustment**Minutes**

Meeting #: CofA 1/2020
Date: Tuesday, January 14, 2020
Time: 4:00 pm
Location: Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

Members Present Donald Cook
Bill Sheldon
Bernie Law

Members Absent John Klassen
Sandra Marsh

Staff Present Holly Willford
Sarah Leach
Barb Wiens
Curtis Thompson

1. Attendance

Applicants, Agents and Interested Citizens

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

Noting that a quorum was present, Chair Cook 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

The Assistant Secretary-Treasurer, Holly Willford stated there have been no requests for withdrawal or adjournment. Ms. Willford did suggest, perhaps the

Committee would like to hear applications B9/2019P, B10/2019P and B12/2019P prior to the Alan Crescent application. The Chair concurred with the suggestion and asked the remaining Members if there were any objections. There were no objections.

5. Applications for Minor Variance

6. Applications for Consent

6.1 B9/2019P - 711 Quaker Road

Purpose of Application

Application is made for consent to to partial discharge of mortgage and to convey 2,182.97 square metres of land (Part 4), to be added to the abutting property to the east (Part 5), for residential use. Part 3 is to be retained for continued residential use of the dwelling known municipally as 711 Quaker Road.

Representation

The authorized agent was present.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Public Works
3. Town of Pelham Building Department
4. Town of Pelham Tax Department
5. Niagara Region

Applicant's Comments

The authorized Agent, Mr. William Heikoop, provide a short presentation to further explain the application. Mr. Heikoop indicated it is the intention of the owner to merge Parts 2 and 4 with Part 5 allowing for a larger development. He further stated the future development would likely require a re-zoning amendment and a condominium application.

Public Comments

There were no comments received from the public.

Members Comments

A Member of the Committee asked what the final size of the project would be and if the development will be a multi-family development. In response, Mr. Heikoop indicated the project will roughly be 10,000 square feet and at this time he is unsure of the project details; however it will be some type of multi-family development. Mr. Heikoop indicated currently the project is focused on compiling the required lands.

A Member of the Committee asked if all the lands on Claire have been sold. In response, Mr. Heikoop indicated he was not aware if all lands had been sold.

The Member asked if the application was circulated to the Fire Department. In response, Town Planner, Mr. Thompson, indicated the Fire Department was circulated the application.

Moved By Bernie Law

Seconded By Bill Sheldon

Application is made for consent to partial discharge of mortgage and to convey 2,182.97 square metres of land (Part 4), to be added to the abutting property to the east (Part 5), for residential use. Part 3 is to be retained for continued residential use of the dwelling known municipally as 711 Quaker Road, is hereby: GRANTED.

The above 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. 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.**
- 3. 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.**
- 4. 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:

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 east (Part 5 on said sketch), 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 \$395, 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.**

Carried

6.2 B10/2019P - 717 Quaker Road

Purpose of Application

Application is made for consent to partial discharge of mortgage and to convey 2,182.97 square metres of land (Part 2), to be added to the abutting property to the east (Part 4 and 5), for residential use. Part 1 is to be retained for continued residential use of the dwelling known municipally as 717 Quaker Road.

Representation

The authorized agent was present.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Public Works
3. Town of Pelham Building Department
4. Town of Pelham Tax Department
5. Niagara Region

Applicant's Comments

The authorized Agent, Mr. William Heikoop indicated he had no additional comments.

Public Comments

There were no comments received from the public.

Members Comments

There were no comments made by the Committee Members.

Moved By Bill Sheldon

Seconded By Bernie Law

Application is made for consent to partial discharge of mortgage and to convey 2,182.97 square metres of land (Part 2), to be added to the abutting property to the east (Part 4 and 5), for residential use. Part 1 is to be retained for continued residential use of the dwelling known municipally as 717 Quaker Road, is hereby: GRANTED.

The above 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. 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.**
- 3. 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 Treasurer

1. That all municipal taxes owing to the Town of Pelham on the subject lands, as detailed in correspondence from the Treasurer and Tax Collector, dated December 6th, 2019 be paid in full to the town, to the satisfaction of the Treasurer

To the Satisfaction of the Secretary-Treasurer

1. That application for consent, file B10/2019P receive final certification of the Secretary-Treasurer concurrently with application B9/2019P.
2. 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 east (Part 4 and 5 on said sketch), 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 application for consent file B9/2019P (Part 4) transfer shall be registered on title prior to the registration of consent file B10/2019P (Part 2) and 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.
3. 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.
4. That the final certification fee of \$395, 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.

Carried

6.3 B12/2019P - 686 Quaker Road

Purpose of Application

Application is made for consent for partial discharge and to convey 907 square metres of land (Part 1) for future development, undetermined at this time. 1,382 square metres of land (Part 2) is to be retained for the existing commercial use. The application proposes to divide the parcel along pre-existing lot lines wherein the lots inadvertently merged in title.

Representation

The authorized agent was present.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Public Works
3. Town of Pelham Building Department
4. Bell Canada
5. Ken Shugart Comments
6. Dave Robertson Comments
7. Stan and Petra Pazour Comments

Applicant's Comments

The authorized Agent, Mr. Joe Tomaino indicated the owner thought he would be purchasing separate lots, however the lots merged in title.

Public Comments

There were no comments received from the public.

Members Comments

There were no comments made by the Committee Members.

Moved By Bernie Law

Seconded By Bill Sheldon

Application made for consent for partial discharge and to convey 907 square metres of land (Part 1) for future development, undetermined at this time. 1,382 square metres of land (Part 2) is to be retained for the existing commercial use. The application proposes to divide the parcel along pre-existing lot lines wherein the lots inadvertently merged in title, is hereby: GRANTED.

The above 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. 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.
3. 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 Director of Public Works

1. That the new lot is serviced with an individual 20 mm Ø water service and 125 mm Ø sanitary sewer lateral in accordance with Town standards. Installation of any service will require a Temporary Works Permit(s) to be obtained and approved by the Public Works Department. The applicant shall bear all costs associated with these works.
2. Submit a drawing, to the satisfaction of the Director of Public Works, indicating the locations of the individual water service and sanitary laterals for all lots to confirm no existing service branches from, or through any proposed lot lines to other lands, and from or through the remnant parcel to other lands. Locate cards for all lots shall be required after the installation of new services.
3. Submit a comprehensive overall lot grading & drainage plan demonstrating that the drainage neither relies upon nor negatively impacts neighbouring properties, and that all drainage will be contained within the respective boundaries of the new parcel, to the satisfaction of the Director of Public Works.

To the Satisfaction of the Director of Community Planning & Development

1. Sign the Town of Pelham's standard "Memorandum of Understanding" explaining that development charges and cash-

in-lieu of the dedication of land for park purposes are required prior to the issuance of a Building Permit.

To the Satisfaction of the Secretary-Treasurer

1. 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.
2. That the final certification fee of \$395, 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.

Carried

The Chair Called a 5 minute recess.

The Chair reconvened the meeting from the recessed break.

7. B11/2019P, A28/2019P and A29/2019P - 20 Allan Crescent Applications

7.1 B11/2019P - 20 Alan Crescent

Purpose of Application

Application is made for consent to partial discharge of mortgage and to convey 432.82 square metres of land (Part 1) for construction of a residential dwelling. 835.94 square metres pf land (Part 2) is to be retained for continued use of the residential dwelling known as 20 Alan Crescent.

Representation

The authorized agent was present.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Public Works
3. Town of Pelham Building Department

4. Bell Canada
5. Foster Zanutto Comments
5. Robert Jansen Comments
6. Sheila Boyle and Frieder Honig Comments
7. Keith and Deborah Powell Comments
8. Tito De Concilys Comments
9. Franz Tauss and Edda Tauss Comments
10. Kerry Black Comments and pictures
11. Ellie Stefaniuk Comments
12. Deborah and Randy Crysler Comments
13. David Reid Comments
14. Ted and Angeline Galotta Comments
15. Ernie and Charlotte Chiola Comments
16. Paula and Rob Berketo Comments
17. Peggy and Roger Barnsely Comments
18. Yolanda Bostock Comments
19. Jeff Kerr Comments
20. Jim Marando Comments
21. Jackie Oblak Comments
22. Diane Belanger Comments
23. Graeme Potts Comments
24. Upper Canada Consultants Presentation

Applicant's Comments

The authorized Agent, Mr. Craig Rohe, provide a short presentation to further explain the application. Mr. Rohe indicated there are two mature trees on the property with one tree to be removed and the other tree will hopefully be preserved. Furthermore, Mr. Rohe indicated he and his client agree with staff comments and suggested conditions.

Public Comments

Mr. Foster Zanutto voiced concerns regarding how the Town's Planning Department responded to public comments and the general process of receiving public comments. In response, Mr. Thompson, Planner, indicated the Town's Planning Department reviews all comments made by the public in full and is required to evaluate the said comments based on planning policy. Furthermore, the Chair indicated all public comments received, in full, are forwarded to the Committee Members.

The Chair further advised the gallery the Committee Members are required to review consent applications in accordance with Section 51 (24) of the *Planning Act*. The Chair provided a synopsis of this section of the *Planning Act*.

Mr. Robert Jensen voiced concerns regarding how the Town's Planning Department responded to public comments and stated he felt the Planning Department 'cherry picked' comments and missed other comments with merit. Further, Mr. Jensen stated he believed allowing the addition of a lot would be inconsistent with the neighbourhood. He stated this potential consent would negatively affect his property and referenced the home would look out into neighbours backyards. He further stated the reorientation of the lot would not be fair to the surrounding neighbours. In response, Mr. Thompson and the Chair stated although public comments are not repeated verbatim, comments in full are provided to the Committee Members.

Mr. Ron MacDonald indicated he has concerns regarding storm sewers and is concerned about flooding. In response, The Chair stated, if granted, a condition of the consent would be to provide an overall drainage plan to the satisfaction of the Town. Mr. Rohe further indicated the applicant would provide a grading and drainage plan demonstrating no negative effects on any other property and that the property may have rear yard catch basins or swales.

Mr. Peter Moore, stated he grew up on 19 Alan Crescent and stated there is a social dysfunction in the neighbourhood and found it interesting that 'who' is going to be living in the home was considered irrelevant. The Chair indicated that is beyond the scope of the Committee of Adjustment.

Ms. Berketo indicated she grew up at 14 Alan Crescent and is speaking on behalf of herself, her son and her son's partner. She indicated she did not feel the applications pass the minor variance tests of the Planning Act. She stated she has concern regarding rain water, the visual

appearance of the home looking out of character, location of window openings, trees to be affected, and that she felt this application was not good planning. In response, Mr. Thompson referenced the Planning Justification Report and that proposed use is identical to the current use; therefore keeping the character of the property. Mr. Rohe further advised the proposed building design and large trees to be planted keeps with the spirit of the neighbourhood and therefore character.

Mr. Marando stated he would like to present a petition of 22 signatures of people whom object to the proposal. Ms. Willford, Assistant Secretary-Treasurer to the Committee of Adjustment accepted the petition. Mr. Marando indicated he felt the minor variances were not minor. The Chair advised currently the Committee is reviewing the consent application only.

Ted Galotta indicated the Provincial Policy Statement indicates items such as social benefits, economic benefits are required to be considered. He stated he believes the property should not be severed and believes all properties on Alan Crescent should stay in their current form. He stated he sees no benefits to severing the lands. He stated he purchased his home on Alan Crescent from a severed lot and built his home to fit the neighbourhood and suggests the owner of 20 Alan Crescent could renovate the property instead.

The Chair asked the Director of Community Planning and Development, Ms. Barb Wiens, if she would like to comment on the comments made regarding the Provincial Policy Statement. In response, Ms. Wiens indicated Planning Staff do look at the Provincial Policy Statement in its entirety when reviewing applications and making recommendations. She stated social considerations are important and have been reviewed as reflected in the report. In addition, Mr. Rohe indicated his Planning Justification Report discussed the benefits to the community as well.

Randy Walinga stated he has lived in the neighbourhood for 20 years and said it would be a shame to change the neighbourhood and was concerned this would set a precedent.

Members Comments

A Member of the Committee stated Pelham is a small community and that this application does not meet the criteria he is looking for. He further stated he is concerned about storm water runoff. Furthermore, the Member stated in his opinion the proposed house is too large for the property. The Member indicated he personally objects to this development, being a large home on a small lot.

A Member of the Committee stated with respect to the severance application, the severance itself in principal works and meets most, if not all planning policies and good planning practices. Furthermore, he stated infill applications are a good thing; however indicated it becomes tricky when a neighbourhood or enclave is disrupted. The Member indicated planning policies do call for intensification, however does not indicate the intensification shall retroactively go into established neighbourhoods. The Member questioned *what is a neighbourhood*. In addition, the Member asked if the severance or the minor variance applications are an issue. The Member further questioned if the Committee should make the decision on the minor variance, or if it should rather be a decision of Council as a re-zoning application. In response, the Chair referenced the Committee should look to judge the severance application based on the criteria set out by the *Planning Act*.

A Member of the Committee discussed the possibility of refusing the severance application and the potential for an appeal from the developer. The Member further stated if the Committee grants the severance application and refuses the minor variance application the severance application dies.

A Member of the Committee referenced the criteria set out by the *Planning Act* and cited Section 51 (24) (g) and stated he believes the required minor variances would be considered a restriction, however this alone would not be sufficient in refusing the severance application. The Member also discussed the need for intensification and the issue of intensifying in an established neighbourhood. The Member echoed the sentiments of wanting Council to determine the zoning on the property. Furthermore, the Member indicated intensification appears to be a justification for severing properties within an established neighbourhood. The Member indicated he agrees with his colleague and questioned *what is a neighbourhood*. The Member stated he is against the severance, however more against the minor variance.

A Member asked if the applications may be heard concurrently. In response, Ms. Willford indicated the consent application is required to be heard first and if the consent is granted the Committee may hear the minor variance applications concurrently. Ms. Willford further stated the Committee has the power to grant or refuse each minor variance on its own merits. Furthermore, Ms. Willford indicate it is not permitted to hear the minor variance application first, as if approved the minor variance runs with the land. She further indicated if the consent application were to be refused, the minor variance files would require a technical refusal.

A Member asked if the severance is granted and the minor variances requests are refused, would the application die. In response, Ms. Wiens stated in that circumstance the application is not dead, rather the applicant has the ability to appeal or may apply for a zoning by-law amendment. Ms. Wiens stated if the consent is granted it would be a provisional consent with conditions to fulfil within a year. She further indicated if the applicant is unable to fulfil the conditions of the consent application within a year the application would die.

A Member stated if the minor variance applications were denied then the applicant may appeal the decision or apply for a zoning by-law amendment; therefore being a council decision.

The Chair requested clarification regarding the requirement for intensification. In response, Ms. Wiens indicated infill and intensification can be one lot or multiple unit developments. She stated the Town of Pelham requires to intensify at a target of 15% being 300 new dwelling units. Ms. Wiens indicated these new dwellings apply to established neighbourhoods and do not apply to greenfield developments. Ms. Wiens was requested to further explain which lands within the Town would apply to this target. A Member stated he was not sure if the Committee has the jurisdiction to hear the applications and suggested a potential deferral.

Mr. Rohe stated his client followed all protocol and had been directed by Town staff to apply for a consent and minor variance. Mr. Rohe expressed concerns regarding the minor variance being deferred to Council as the consent requires condition to be fulfilled within a one year time period. Mr. Rohe stated his client is prepared to appeal and would request a decision be made that evening.

Ms. Wiens was asked by a Member if all three applications may be heard concurrently. In response, Ms. Wiens indicated there are three application before the Committee and all application may be hear concurrently with the consent to be heard first. Conversation regarding hearing the applications concurrently commenced.

A Member indicated he would like to have the matter deferred and stated he was not sure if the Committee has the jurisdiction to make the decision and he believes the Planning Department has not looked at the fabric of the community as it exists. Another Member of the Committee asked the Director of Community Planning and Development if the Committee may refuse the application as the Committee does not believe they have jurisdiction over the matters. In response, Ms. Wiens stated the Committee of Adjustment has jurisdiction to deal with the consent and

minor variance applications. Ms. Wiens indicated if the Committee feels the variance request are not minor and it more appropriate to be heard as a zoning by-law amendment that would be a valid reason for refusal. She further indicated if the Committee refuses the consent application they have the jurisdiction to do so, however must state reason as to why the consent is not in conformity with policy. Further discussion regarding procedure commenced.

A Member proposed the applications B11/2019P, A28/2019P and A29/2019P be deferred. Through conversation, the Committee determined the applications would be deferred to receive more information regarding Official Plan Policy B1.1.3 regarding residential intensification and information regarding *what is a neighbourhood*.

Moved By Bill Sheldon

Seconded By Bernie Law

THAT applications B11/2019P, A28/2019P and A29/2019P be deferred to receive more information regarding Official Plan Policy B1.1.3 regarding residential intensification and information regarding *what is a neighbourhood*.

Carried

7.2 A28/2019P - 20 Alan Crescent (Part 1)

Application was deferred. Please see file B11/2019P for more information.

7.3 A29/2019P - 20 Alan Crescent (Part 2)

Application was deferred. Please see file B11/2019P for more information.

8. Minutes for Approval

None.

9. Adjournment

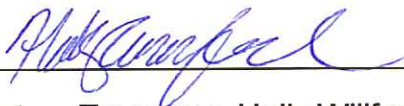
Moved By Bill Sheldon
Seconded By Bernie Law

BE IT RESOLVED THAT this Meeting of the Committee of Adjustment
Hearing be adjourned until the next regular meeting scheduled for January
28th, 2019 at 4:00 pm.

Carried



Don Cook, Chair



Assistant - Secretary-Treasurer, Holly Willford