

March 3, 2020

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

Re: Minor Variance Application A10/2020P
66 – 72 Summersides Blvd, Pelham
Block 43, 59M-471
Roll No. Unknown

The subject land is located on the southwest corner of Summersides Boulevard and Klager Avenue, legally described above, and known locally as 66 – 72 Summersides Boulevard in the Town of Pelham.

The subject land is zoned 'Residential Multiple 1 – 287' (RM1-287) in accordance with Pelham Zoning By-law 1136 (1987), as amended. The minor variance application requests relief from:

- i. **By-law No. 4041 (2018) Section 2. RM1-287 Section 6. General Provisions (c) "Garage - setbacks"** to remove the shared masonry wall requirement in favour of an approved *Ontario Building Code* detail.
- ii. **By-law No. 4041 (2018) Section 2. RM1-287 Section 6. General Provisions (c) "Garage – setbacks"** seeking a minimum interior side yard setback of 1.2 m on the other side, whereas 2.4 m is required.
- iii. **Section 6.1 (d) "Maximum (accessory) Lot Coverage"** seeking 13 % for 68 and 70 Summersides Boulevard, whereas 10 % is required.

The proposal seeks to construct detached garages associated with a future 4-unit townhouse block fronting Summersides Boulevard with rear loaded garages accessed by Tokar Lane.

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

The proposed minor variance application has been submitted to seek relief from certain site-specific zoning provisions in order to facilitate the applicant's preferred site design layout, specifically the rear lane garages.

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 was previously completed as part of the River Estates Phase 2 Subdivision which created this block of developable land.

The proposed development seeks to modify the rear-loaded detached garages for a 4-unit townhouse. Specifically, the variances would help facilitate double car garages and emit a zoning requirement which stipulated the use of masonry walls on mutual lot lines. 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 while meeting *greenfield* policy objectives.

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 a *designated greenfield area* and is located within a 'Settlement Area' according to the Growth Plan. *Designated greenfield areas* are required to accommodate forecasted growth to this Plan's horizon. 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.

The proposed minor variances exclusively contemplate three zoning provisions associated with detached (rear lane) garages associated with a future 4-unit townhouse block. The zoning provisions do not directly facilitate *intensification* by definition, instead they seek a particular lotting fabric and double car garages for each of the four townhouse dwelling units.

Regional Official Plan (Consolidated August 2014)

The Regional Official Plan designates the subject land as 'Designated Greenfield 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.C.5 states *Designated Greenfield Areas* will be planned as compact, complete communities by:

- a) Where permitted by scale, accommodating a range of land uses.
- b) Where limited by scale or configuration, making a significant contribution to the growth of the respective *Urban Area*.
- c) Providing opportunities for integrated, mixed land uses.
- e) Ensuring that Greenfield development is sequential, orderly and contiguous with existing built-up areas.

As stated earlier, the proposed minor variance seeks to accommodate four sets of double car garages associated with a future 4-unit townhouse block fronting Summersides Boulevard.

Policy 4.J.4 states the Region encourages private realm site design that addresses public safety, active transportation, landscaping, and human scale in buildings facing public space.

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

- c) Emphasizes the entrance.
- d) Is accessible to all persons.
- g) Provides an attractive, active transportation friendly streetscape.
- h) Contributes to a sense of safety within the public realm.
- j) Creates or enhances an aesthetically pleasing and functional neighbourhood.

The layout of the proposed detached garages does not negatively impact Summersides Boulevard due to the rear lane vehicle access. Tokar Lane (and lanes in general) are usually meant to service the principle uses of any given piece of land. Consequently, laneways are historically held to a lower standard of urban design when it comes to streetscapes. Their primary role is to provide vehicular access to garages and parking lots, also serving as a place to store garbage and recycling bins for pickup. The proposed inclusion of double car garages will help provide some flexibility in the residential housing market, particularly with rear laneway product which is still rather fresh in Niagara and continues to make a *come-back* in the Region and Province.

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 'Secondary Plan Area' within the Fonhill Settlement Area. More specifically, the East Fonhill Secondary Plan designates this parcel as EF – Medium Density Residential. Policy B1.7.7.4 outlines the permitted uses and intentions of this designation. Subsection h) states that development on the basis of public lanes is encouraged and may be required where dwellings front onto a Collector Main Street. The minor variance application is a response to the desire for building double car garages on the rear laneway. Four (4) double car garages can actually be situated along the rear laneway of the subject lands in compliance with By-law 4041 (2018). However, the spacing of these garages would need to be adjusted from what is shown on the attached Site Plan. This would have a slight impact upon the geometry of the (potential) future lot lines of the individual townhouse units should the builder choose to sell units independently.

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* (i.e. *Significant Woodlands, Provincially Significant Wetlands or valleylands* etc.) are located near the subject lands.

Policy A2.3.2 Urban Character – stated objectives of this Plan include (among others):

- To enhance the *urban areas* as diverse, livable, safe, accessible and attractive communities.
- To ensure that new development areas are integrated into the fabric of the existing community in conformity with approved Secondary Plans.
- To encourage the development of neighbourhoods which are compact, pedestrian-friendly and provide a mix of housing types.
- To foster a sense of civic identity through a high standard of urban design in public and private development.

The proposed minor variances have little impact on the stated objectives of Policy A2.3.2 as they relate to rear laneway development, and do not compromise the *Ceremonial route* (Summersides Boulevard), or Klager Avenue which are both designated *Collector Urban 'Main Streets'* and are consequently held to considerably higher urban design / streetscaping standards. This is evidenced in Appendix B of the Town Official Plan – East Fonthill Urban Design Guidelines.

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.

Town Engineering staff object to the requested side yard setback reduction because of the potential for rear yard flooding caused by the concentrated overland stormwater runoff.

Policy B1.7.3.1 (East Fonthill) Development Objectives – states that the following private (and public) development objectives will be implemented by the mechanisms in the Official Plan, the implementing Zoning and Site Plan Approvals. The East Fonthill development objectives (that relate to this development) are:

- c) To create a sense of identity and continuity within the community through design treatments that residents and visitors can recognize as characteristic of the Secondary Plan Area;
 - ✓ The East Fonthill neighbourhood is still in its early days but the policy objectives and demonstration plans envision a tasteful urban village with Summersides Boulevard acting as the *ceremonial collector route* with flanking rear-loaded residential development.
- d) To create a complete community with a safe, healthy and functional environment that can accommodate between 6,500 and 7,500 new residents and jobs combined;
 - ✓ The proposed minor variances do not hamper the ability for East Fonthill to meet its projected growth targets.
- k) To develop a land use pattern and transportation system that supports motorized vehicular traffic, transit, cyclists and pedestrians and provides alternate transportation routes to most destinations;
 - ✓ The subject lands utilize a rear laneway for vehicle access. Rear-loaded developments are superior to front-loaded developments when it comes to the safety and experiences of pedestrian and cyclists, as well as drivers and transit vehicles. The proposed detached garages do not conflict with this policy.

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

The subject land is zoned 'Residential Multiple 1 – 287' (RM1-287) in accordance with Pelham Zoning By-law 1136 (1987), as amended. Under the site-specific Zoning By-law Amendment No. 4041 (2018), the minor variance application requests relief from:

- i. **Bylaw No. 4041 (2018) Section 2. RM1-287 Section 6. General Provisions (c) "Garage - setbacks"** to remove the shared masonry wall requirement in favour of an approved *Ontario Building Code* detail.
- ii. **By-law No. 4041 (2018) Section 2. RM1-287 Section 6. General Provisions (c) "Garage – setbacks"** seeking a minimum interior side yard setback of 1.2 m on the other side, whereas 2.4 m is required.
- iii. **Section 6.1 (d) "Maximum (accessory) Lot Coverage"** seeking 13 % for 68 and 70 Summersides Boulevard, whereas 10 % is required.

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 request to remove the shared masonry wall provision is reasonable and minor overall as the <i>Ontario Building Code (OBC)</i> best regulates these matters.</p> <p>Increasing the maximum (accessory) lot coverage to 13% is minor overall as adequate land area remains available for rear yard amenity space. Adequate landscaped open space is also available for stormwater management purposes.</p> <p>However, notwithstanding the requested minor variance to reduce the interior side yard setback to 1.2 m for the detached garages. These lands have been designed to sheet flow southbound towards Tokar Lane into the storm sewer system. Town Engineering staff are concerned that a concentrated drainage caused by extended garage walls interfering with the sheet flow may cause rear yard flooding.</p>
<p>2. The variance is desirable for the development or use of the land.</p>	<p>The request to remove the shared masonry wall provision is desirable for the lands because it's already regulated by the <i>OBC</i>, and it will allow more construction design flexibility for the builder / market.</p> <p>Increasing the maximum (accessory) lot coverage to 13% is desirable for the lands as it will allow the construction of double car garages for each townhouse unit without eliminating the desirable rear yard amenity spaces. Adequate landscaped open space is also available for stormwater management purposes.</p> <p>However, reducing the interior side yard setback to 1.2 m for the detached garages may negatively impact the overland drainage of the subject lands through rear yard flooding caused by the proposed wall extensions which narrowly concentrates sheet flow.</p>
<p>3. The variance maintains the general intent and purpose of the Official Plan.</p>	<p>Removing the shared masonry wall provision maintains the general policy intent of the Official Plan because wall construction details are regulated by the <i>OBC</i>, and there are no obvious negative impacts anticipated with its removal.</p> <p>Increasing the maximum (accessory) lot coverage maintains the general policy intent of the Official Plan because access continues to be provided via the rear laneway, adequate amenity space remains and the increased lot coverage proposed by itself will not adversely impact the drainage capabilities of the subject land.</p> <p>However, the request to reduce the interior side yard setbacks were not accompanied by a thoroughly demonstrated need on the basis that the subject zoning provision isn't warranted, causes undue hardship, or is otherwise impossible to comply with (Policy E1.5). The <i>Planning Justification Brief</i> spoke to the <i>Four Tests</i> of the <i>Planning Act</i> but nothing else. The answer for question 5 of the minor variance application states that the reason it's not possible to comply with the Zoning provisions is 'to provide rear lane townhouses while accommodating parking and adequate spacing'.</p>

	<p>Town staff note that the subject lands are large enough to accommodate up to four (4) double car garages, although in a different configuration employing jogged or angled internal lot lines. No internal lot lines (separating individual townhouse units) exist on Block 43 (the subject lands). Any future lot lines will be bound by the RM1-287 zoning provisions (e.g. lot frontage, lot area etc.). Together with the drainage concerns, Town staff aren't convinced this zoning request satisfies the test for meeting the Official Plan policy intent.</p>
4. The variance maintains the general intent and purpose of the Zoning By-law.	<p>Removing the shared masonry wall provision does not compromise the ability to comply with the <i>OBC</i> because there are several acceptable wall construction details available to the builder under the <i>Code</i>, and the Zoning By-law still continues to allow for mutual, (aka zero lot line) detached garages, as was originally intended.</p> <p>Increasing the maximum (accessory) lot coverage maintains the general intent of the Zoning By-law because ample parking stalls are provided off the rear laneway, adequate amenity space remains and the increased lot coverage proposed by itself will not adversely impact the drainage capabilities of the subject land.</p> <p>The intent of the 2.4 m interior side yard setback for detached garages is actually to allow for a parking stall beside the detached garage structure(s). It originated beyond the consideration of stormwater drainage, as can be evidenced from the default side & rear yard setbacks of the Zoning By-law's General Provisions (see Section 6.1 of By-law No. 1136 (1987)) for accessory buildings. Therefore, Planning staff are of the opinion this request does not maintain the intent and purpose of the site-specific Zoning By-law.</p>

Agency & Public Comments

On February 4, 2020 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 (Jan 14, 2020)
 - Mutual garages must have an alternative firewall, as per the *Ontario Building Code (OBC)*.
 - Individual building permits are required for each townhouse unit and detached garage.
- Public Works Department (Feb 25, 2020)
 - The Master Grading Plan for the River Estates Phase 2 subdivision illustrates Block 43 (subject lands) draining north to south towards Tokar Lane. Reducing the minimum interior side yard setback for the garages effectively halves the land available to drain stormwater (for units 68 & 70) southward. This can lead to rear yard flooding during heavy storm events and cause water accumulation against the detached garage walls. The water is only draining off the subject lands by sheet flow.
 - Does not support the minimum interior side yard setback request.

No public comments were received at the time of this writing.

Planning Staff Comments

The subject lands are located on the southwest corner of the roundabout intersection of Summersides Boulevard and Klager Avenue. The property is surrounded by vacant residential designated land.

The proposed minor variance application seeks zoning relief from two (3) site-specific zoning regulations and one (1) zoning regulation from the default General Provisions regulations found in Section 6 of the Zoning By-law. The site-specific zoning requests are to remove the shared masonry wall requirement, and to reduce the minimum interior side yard setback (on one side) from 2.4 m to 1.2 m, in order to accommodate double car garages in the layout illustrated on the attached Site Plan. The other zoning request from the default General Provisions is to increase accessory building lot coverage from 10% to 13% for 68 & 70 Summersides Boulevard, being the two interior dwelling units.

The minor variance application is a response to the desire for building double car garages on the rear laneway. Four (4) double car garages can actually be situated along the rear laneway of the subject lands in compliance with By-law 4041 (2018). However, the spacing of these garages would need to be adjusted from what is shown on the attached Site Plan. This would have a slight impact upon the geometry of the (potential) future lot lines of the individual townhouse units should the builder choose to sell units independently.

Planning staff have reviewed the *Justification Brief* prepared by Ken Gonyou, submitted with the application.

None of the requested zoning provisions are required to facilitate the 4-unit townhouse development, they are desired by the applicant for design, architectural, and functional reasons. If the 4-unit townhouse block were to proceed without the requested variances, maintaining the future internal lot lines as shown on the Site Plan, two of the detached garages would need to be narrower.

Town Engineering staff with the Public Works department have raised concern with the requested variance to reduce the minimum interior side yard setback for the detached garages. Specifically, that the wider garages may negatively impact the overland drainage capabilities of the subject lands through rear yard flooding caused by the wall extensions. The River Estates Phase 2 subdivision master Grading Plan did not contemplate (double car) garages along the rear laneway, or at the specified setback.

With exception to the policy intent of E1.5 of the Official Plan, the balance of the policies and the East Fonthill Secondary Plan continues to be conformed with as well as compliance to the *Ontario Building Code*.

Planning staff are of the opinion that the proposal applies current planning and development principles dealing with appropriate *greenfield* development, making efficient use of the designated urban area lands, providing design flexibility where suitable to do so. With one exception, the proposed minor variances should not negatively impact the surrounding neighbourhood with regards to land use incompatibility, traffic, privacy and storm water runoff.

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

Given this analysis, Planning staff recommend that minor variance file A10/2020P **be decided** as follows:

By-law No. 4041 (2018) Section 2. RM1-287 Section 6. General Provisions

(c) "Garage - setbacks" to remove the shared masonry wall requirement in favour of an approved Ontario Building Code detail

→ **Approve**

(c) "Garage - setbacks" minimum interior side yard setback of 1.2 m on the other side

→ **Refuse**

By-law No. 1136 (1987)

Section 6.1 (d) "Maximum (accessory) Lot Coverage"



Approve

13 % for 68 and 70 Summersides Boulevard

Prepared by,

A handwritten signature in black ink that reads "Curtis Thompson".

Curtis Thompson, B.URPI
Planner

Approved by,

A handwritten signature in blue ink that reads "Barb Wiens".

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