

Committee of Adjustment AGENDA

CofA 3/2020

March 3, 2020

4:00 pm

Town of Pelham Municipal Office - Council Chambers

20 Pelham Town Square, Fonthill

Pages

1. **Attendance**
2. **Call to Order, Declaration of Quorum and Introduction of Committee and Staff**
3. **Disclosure of Pecuniary Interest and General Nature Thereof**
4. **Requests for Withdrawal or Adjournment**
5. **Applications for Minor Variance**
 - 5.1 **A8/2020P - 415 Canboro Road**
 1. Town of Pelham Planning Department
 2. Town of Pelham Public Works
 3. Town of Pelham Building Department
 4. Niagara Region

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March 3, 2020

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

Re: Minor Variance - Application A8/2020P
415 Canboro Road, Pelham
Concession 8, Part of Lot 8
Roll No. 2732 020 013 08902

The subject land is located on the north side of Canboro Road, lying west of Effingham Street, legally described above and known municipally as 415 Canboro Road, in the Town of Pelham.

The subject land is zoned 'Agricultural' (A) in accordance with Pelham Zoning By-law 1136 (1987), as amended. The proposed accessory building requests zoning relief through a minor variance application as follows:

- **Section 7.7 a) "Max Accessory Lot Coverage"** seeking 2 %, whereas 1% is permitted.
- **Section 7.7 d) "Max Accessory Building Height"** seeking 4.22 m, whereas 3.7m is permitted.

The proposal is for the construction of a 59.5 m² (640 ft²), 1-storey detached garage which has more or less, been built. The requested lot coverage is not required, but is sought in order to legalize an existing *legal non-complying* situation originating from the original accessory building which was situated in generally the same location as the proposed garage. The requested building height stems from the owner's misjudgment in ordering trusses / lumber.

Applicable Planning Policies

Provincial Policy Statement (PPS), 2014

The Provincial Policy Statement (PPS) designates the subject land within the 'Prime Agricultural Area'. The permitted uses (among others) include: agricultural / agricultural related uses, limited residential development and home occupations. 'Prime Agricultural Areas' are defined as including associated Canada Land Inventory Class 4-7 lands as well as 'Prime Agricultural Lands' (Class 1-3 lands).

Policy 2.6.2 states *development* and *site alteration* shall not be permitted on lands containing *archaeological resources* or *areas of archaeological potential* unless significant *archaeological resources* have been *conserved*.

The proposed detached garage is situated in generally the same location of the existing accessory building's footprint.

Greenbelt Plan (2017)

The subject parcel is designated 'Tender Fruit & Grape Lands' within the Greenbelt Plan's *Protected Countryside*.

Policy 4.5 states that all existing uses are permitted, including single dwellings on existing lots of record, provided they were zoned for such prior to the Greenbelt Plan coming into force. Expansions to existing buildings which bring the use more into conformity with this Plan are permitted so long as new municipal services are not required and the addition does not expand into key natural heritage / hydrologic features.

The proposed accessory building does not conflict with Greenbelt Plan policy.

Regional Official Plan (Consolidated, August 2014)

The Regional Official Plan designates the subject land as 'Unique Agricultural Area' as part of the Protected Countryside lands in the Greenbelt Plan.

Regional staff have no comments for the proposed development.

Pelham Official Plan (2014)

The Town Official Plan designates the subject parcel as 'Specialty Agricultural'. The purpose of this designation is to implement the Greenbelt Plan and recognize the importance of specialty croplands. Policy B2.1.2 states (among other uses) one single detached dwelling is permitted on a vacant lot of record.

Policy D4.3 Archaeological Resources – states that Council recognizes that there are archaeological remnants of pre-contact and early historic habitation as well as archaeological potential areas within the Town. Council shall require archaeological assessments and the preservation or excavation of significant archaeological resources in accordance with Provincial guidelines, requirements and protocols.

Based on the Town's Heritage Master Plan, the subject lands are identified as having high potential for deeply buried archaeological material. However, because the new detached garage is situated generally within the same footprint of the former accessory building, the site is considered to be heavily disturbed and does not warrant an archaeological assessment.

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

The subject land is zoned 'Agricultural' (A) according to the Zoning By-law. Section 7 of the 'A' zone permits one single detached dwelling and accessory buildings, among other uses.

Section 7.7 Requirements for buildings and structures accessory to dwellings

- | | | |
|----------------------------|-------|------------------|
| a) Maximum Lot Coverage | 1 % | Request = 2 % |
| d) Maximum Building Height | 3.7 m | Request = 4.22 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.	The variance to increase accessory building lot coverage to 2 % is minor overall as adequate land area remains available to handle stormwater runoff, the septic system and preserve a rear yard amenity area.

	<p>Increasing the accessory building height to 4.22 m is minor given the rural context. No negative impacts are anticipated by the adjacent neighbors as over 60 m separates the nearest residential neighbour from the building site together with some large caliper trees acting as an additional buffer screen.</p>
<p>2. The variance is desirable for the development or use of the land.</p>	<p>Increasing the accessory building lot coverage is desirable for the land because it will allow for enhanced use of the rural residential property which is relatively small in size and constrained for an agricultural area or traditional farming operation.</p> <p>The variance request to increase the accessory building height is desirable for the property as it allows for enhanced storage and use of the facility. The adjacent dwellings are setback over 60 m and are either buffered by some large caliper trees or existing structures. No adverse impacts are anticipated on the surrounding lands.</p>
<p>3. The variance maintains the general intent and purpose of the Official Plan.</p>	<p>The proposed use of a building accessory to a single detached house is permitted in the 'Specialty Agricultural' designation of the Official Plan and the policy does permit uses which are compatible with agriculture. Given the proposed location of the accessory building, the requested increase in building height will not compromise the objectives of the Official Plan, particularly with respect to land use compatibility, storm water runoff and private sewage system servicing capabilities.</p> <p>The requested increase of accessory building lot coverage directly impacts the development's horizontal footprint upon the lands. Given the high potential for discovery of archaeologically significant resources, an archaeological assessment confirming otherwise, would normally be required. However, considering the proposed garage's location being more-or-less in the same location of the former accessory building, the requirement is not warranted.</p> <p>The variances are appropriate given the site's rural context and meet the general intent of the Town Official Plan policies.</p>
<p>4. The variance maintains the general intent and purpose of the Zoning By-law.</p>	<p>The size of the proposed accessory building's height to 4.22 m, and increased lot coverage to 2 % is appropriate given the rural context. Reasonable amounts of open space remain available on the site for amenity area, stormwater runoff and sewage system purposes, thus the increased height and lot coverage will not adversely impact the rural character of the area or the surrounding countryside. The variance maintains the intent of the Zoning By-law with respect to accessory building massing, siting and locational scale.</p>

Agency / Public Comments

On January 31st 2020, a notice was circulated to agencies directly affected by the proposed application including internal Town departments and all assessed property owners within 60 metres of the property's boundaries.

To date, the following comments have been received:

- Niagara Region Planning & Development Services (February 3, 2020)
 - No comments.
- Public Works Department (February 25, 2020)
 - No comments.
- Building Department (February 18, 2020)
 - A building permit will be required.

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

Planning Comments

The subject lands are surrounded by rural residential dwellings to the east & west, agricultural to the north, and a post office / church to the south. The applicant has expressed that the requested height resulted from an error in judgment while ordering the lumber and did not learn of the matter until the Town's Building Inspector discovered the zoning issue. Again, the Committee should be aware that the requested lot coverage is technically not required to finish the building but is merely desired in order to recognize the status of the former *legal non-complying* accessory building's footprint. The requested accessory building height, however, is required in order to complete the active building permit. Without the requested height being legalized, the applicant will be forced to reduce the height of the structure, appeal the decision of the Committee of Adjustment or seek a rezoning from Town Council.

Considering the proposed accessory building's footprint in relation to its *legal non-complying* predecessor's, Planning staff can infer the ground around proposed location is considered to be heavily disturbed and warrants the waiving of an archaeological assessment requirement by the Town.

The Region of Niagara offered no comments or objections to the proposed minor variance from a Regional or Provincial planning perspective.

The proposed minor variance to increase the accessory lot coverage and accessory building height should not facilitate any adverse impacts with regards to land use incompatibility, storm water runoff or privacy etc.

Planning Staff is of the opinion that the application has satisfied the *Planning Act*, is consistent with the PPS and conforms to Provincial, Regional, and local plans. The proposal is compatible with adjacent uses and the rural agricultural character of the area.

The authorization of the minor variance is not expected to generate negative impacts on adjacent uses or the community at large. Consequently, Planning Staff recommend that Application File Number A8/2020P **be approved**.

Prepared by,



Curtis Thompson
Planner, B.URPI

Approved by,



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

Memorandum

Public Works Department - Engineering

DATE: February 25, 2020
TO: Curtis Thompson, Planner
CC: Nancy J. Bozzato , Clerk; Holly Willford, Deputy Clerk; Jason Marr, Director of Public Works
FROM: Tolga Aydin, Engineering Technologist
RE: File A8/2020P
415 Canboro Road

Public Works has completed a review of the minor variance application A8/2020P for relief of Pelham Zoning By-Law 1136(1987), as amended. The application is made to seek relief from the following:

- Section 7.7(a) to allow a maximum accessory lot coverage of 2% whereas the by-law permits 1%; and
- Section 7.7(d) to allow a maximum accessory building height of 4.22 meters whereas the by-law permits 3.7 meters.

Public Works has no comments.

To: Nancy Bozzato, Holly Willford

Cc: Curtis Thompson, Sarah Leach

From: Belinda Menard, Building Intake/Plans Examiner
Community Planning & Development

Date: February 18, 2020

Subject: Building Comments on Applications to the Committee of Adjustment for
Consents/Minor Variances – February 20, 2020 hearing. **File A8/2020P**

Comment:

- A building permit will be required for the proposed building.

Belinda Menard
Building Intake/Plans Examiner
Community Planning & Development

From: [Sarah Leach](#)
To: [Holly Willford](#); [Curtis Thompson](#)
Subject: FW: 415 Canboro Road Minor Variance
Date: Monday, February 3, 2020 4:12:00 PM
Attachments: [image003.png](#)



Sarah Leach, BA.

Administrative Assistant to the Clerk
Town of Pelham

T: 905-892-2607 x322 | E: sleach@pelham.ca

20 Pelham Town Square | PO Box 400 | Fonthill, ON | L0S 1E0

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From: Ramundo, Matteo <Matteo.Ramundo@niagararegion.ca>
Sent: Monday, February 3, 2020 3:31 PM
To: Sarah Leach <SLeach@pelham.ca>
Cc: Dunsmore, Susan <Susan.Dunsmore@niagararegion.ca>
Subject: 415 Canboro Road Minor Variance

Good Afternoon Sarah,

After review from Regional staff of the minor variance application for the new building at 415 Canboro there was no comments to be made from a Regional perspective therefor we will not require any fees. If you have any questions or concerns regarding this please feel free to contact me back.

Sincerely,

Matteo Ramundo
Development Approvals Technician
Niagara Region
Tel. 905-685-4225 EXT. 3345



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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 Fonthill Settlement Area. More specifically, the East Fonthill 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>
<p>4. The variance maintains the general intent and purpose of the Zoning By-law.</p>	<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,



Curtis Thompson, B.URPI
Planner

Approved by,



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

Memorandum

Public Works Department - Engineering

DATE: February 25, 2020
TO: Curtis Thompson, Planner
CC: Nancy J. Bozzato , Clerk; Holly Willford, Deputy Clerk; Jason Marr, Director of Public Works
FROM: Tolga Aydin, Engineering Technologist
RE: File A10/2020P
66-72 Summersides Boulevard

Public Works has completed a review of the minor variance application A10/2020P for relief of Pelham Zoning By-Law 1136(1987), as amended. The application is made to seek relief from the following:

- By-law 4041 (2018) RM1-287 Section 2 (c) 'Garage – Interior Side Yard Setback with Shared Masonry Wall and Minimum Interior Side Yard Setback - to permit the removal of the required shared masonry firewall between garage units and to allow for an alternative firewall to be used which is approved by the OBC, for units 66 and 68 Summersides Boulevard;
- By-law 4041 (2018) RM1-287 Section 2 (c) 'Garage – Interior Side Yard Setback with Shared Masonry Wall and Minimum Interior Side Yard Setback - to permit a reduced side yard setback for a detached garage to 1.2 meters whereas the by-law requires 2.4 meters for units 68 and 70 Summersides Boulevard; and
- By-Law 1136(1987) Section 6.1 (d) Garage Coverage – to permit a garage coverage of 13% whereas the by-law permits 10% for units 68 and 70 Summersides Boulevard

Public Works has the following comments;

- As per the Master Grading Plan for River Estates Phase 2, Block 43 drains front-to-back on to Tokar Lane. By reducing the Minimum Interior Side Yard Setback for the garages to 1.2 meters, the space to drain these properties is effectively halved. This can lead to the back yards flooding during heavy storm events, and water building up against the garage walls. The water may not be

drained off the property by any means other than sheet flow. Public Works does not support the reduction of Interior Side Yard Setback for units 68 and 70.

To: Nancy Bozzato, Holly Willford

Cc: Curtis Thompson, Sarah Leach

From: Belinda Menard, Building Intake/Plans Examiner
Community Planning & Development

Date: February 18, 2020

Subject: Building Comments on Applications to the Committee of Adjustment for
Consents/Minor Variances – March 3, 2020 hearing. **File A10/2020P**

Comment:

The Building Department offers the following comments,

- The shared garage walls must have an alternative firewall, as per the Ontario Building Code.
- Building permits are required for each townhouse unit and each detached garage building.

Belinda Menard
Building Intake/Plans Examiner
Community Planning & Development

March 3, 2020

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

Re: Consent Application B6/2019P
1295 Pelham Street, Pelham
Part of Lot 173
Roll No. 2732 030 020 09900

The subject parcel, shown as Part 2 on the attached sketch, has 30.34 m on the east side of Pelham Street, lying south of John Street, known locally as 1295 Pelham Street, in the Town of Pelham.

Application is made for consent to convey 1479.8m² (Part 2) with an existing dwelling known locally as 1295 Pelham Street, for continued residential use, together with an easement in perpetuity over 110 m² (Part 3) for an existing sanitary sewer lateral connection in favour of Part 2. Parts 1 & 3 are to be retained for future single detached residential use totaling 749.9m² in lot area.

Note: Minor Variance file A11/2018P was approved on August 14th 2018 legalizing the proposed lot frontage of Parts 1 & 3.

Applicable Planning Policies

Planning Act (Consolidated July 2016)

Section 51 (24) states that when considering the division of land, regard shall be had to the health, safety, convenience, accessibility and welfare of the present and future inhabitants of the municipality and among other things to,

- a) The development's effect on provincial matters of interest;
 - ✓ See PPS and Growth Plan analyses below.
- b) Whether the proposed subdivision is premature or in the public interest;
 - ✓ The neighbourhood block's parcel fabric is highly fragmented with a traditional lotting geometry. The lands to the rear have already been further subdivided with little potential for any further lot creation. Because of this, future (internal) block developments are unlikely as any common infill proposal would likely continue to utilize the existing street frontages available to them, both for practical and economic reasons. Planning staff are of the opinion this severance application would not be consider premature and upholds the public interest.
- c) Whether the plan conforms to the Official Plan and adjacent plans of subdivisions, if any
 - ✓ See Official Plan analysis below. The proposed lot does not compromise the adjacent subdivision parcel fabric as it works within the existing confines of an existing corner lot.

- d) The suitability of the land for such purposes;
 - ✓ The lands (neighbourhood) are predominantly one of lower density with mostly ground-oriented residential dwellings. Opposite Pelham Street are low-rise apartment buildings and a funeral home. The proposed consent would facilitate the construction of one additional single detached residential dwelling which is compliant under the current zoning regulations.
- f) The dimensions and shapes of the proposed lots;
 - ✓ The proposed lot dimensions and shape are consistent with traditional neighbourhood development standards and can comfortably site a new dwelling.
- h) Conservation of natural resources and flood control;
 - ✓ Notwithstanding select deciduous trees, no natural resources are impacted because of this redevelopment. An overall Lot Grading & Drainage Plan is required as a condition of this severance approval to avoid future localized flooding under typical storm events.
- i) The adequacy of utilities and municipal services;
 - ✓ Available.
- j) The adequacy of school sites
 - ✓ Available and within walking distance.

Section 53 (1) states a land owner may apply for a consent and the council may, subject to this section, give a consent if satisfied that a plan of subdivision is not necessary for the proper and orderly development of the municipality.

The proposed development supports provincial interest by making more efficient use of finite urban land and increasing housing supply upon existing linear municipal infrastructure meant to serve the public. The severance is not premature, and does not compromise any future land use redevelopment considerations on adjacent lands. The proposed lot geometry is consistent with traditional neighbourhood development practice and the community at large. Public service facilities, service commercial uses, Downtown and public schools are nearby or within walking distance.

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 lot and remnant lot comply with the Zoning By-law.

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 proposal will facilitate the construction of one new single detached dwelling in a more compact form that helps reduce the amount of under-utilized *urban land* within the Village of Fonthill.

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.

The proposal would facilitate the construction of one single detached house on what is currently a large side

yard amenity plot of land. This provides for improved efficiencies in land use and infrastructure capacities. It should be noted that the two lots abutting the rear yard to the east (50 & 52 Stella Street) were severed in 2010. The application submitted is actually in keeping with the intensification proposals previously seen by the Town and are geometrically & symmetrically comparable when considering the preservation of the existing single detached dwelling bungalow at 1295 Pelham Street.

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.

The proposed severance 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 lot 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 approximately 1 km to Downtown Fonthill which positions it 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 severance 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. However, the neighbourhood is also defined by some low-rise apartment buildings, a church, funeral home, and single storey commercial office building across the street.

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 front Pelham Street which is a designated arterial road.
- 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 with some low-rise apartments, and commercial type uses. The proposed severance would yield one new single detached dwelling.
- 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;
 - ✓ Not applicable as the lands flank an arterial road.
- 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 is similar to, and compatible with the immediate neighbourhood, that is being a single detached dwelling.
 - ✓ The R1 zone does not stipulate a maximum density but does have default minimum lot frontage and minimum lot area requirements. The proposed lot and retained lot comply with the Zoning By-law.
 - ✓ 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.

Policy D5.2.1 states that for any consent application, the Committee of Adjustment shall be satisfied that (among other things) the proposed lot:

- a) Fronts on and will be directly accessed by a public road;
 - ✓ Yes.
- b) Will not cause a traffic hazard;
 - ✓ One additional residential dwelling and driveway apron will not cause a traffic hazard on Pelham Street.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
 - ✓ Yes.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
 - ✓ Yes.
- e) Will not have a negative impact on the drainage patterns in the area;
 - ✓ Grading & Drainage Plan required as a condition of approval.
- f) Will not affect the developability of the remainder of the lands, if they are designated for development by this Plan;
 - ✓ No special land use plans or development considerations are native to this specific block. The severance will not impede the ability for a neighbouring land owner to explore similar redevelopment opportunities.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
 - ✓ No issue.
- h) Conforms with Regional lot creation policy as articulated in the Regional Official Plan.
 - ✓ Complies with Regional Official Plan.
- i) Complies with the appropriate Provincial Minimum Distance Separation Formulae, where applicable.
 - ✓ Not applicable.

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.

Access to municipal services is available for the subject lands and will be addressed as part of the conditions of severance approval, along with drainage. The site is positioned near the intersection of Pelham Street and Pancake Lane which is an evolving neighbourhood node of development. The property is under a 10-minute walk to Glynn A. Green Elementary School and neighbourhood commercial uses south on Pelham Street.

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

The subject land is currently zoned 'Residential 1' (R1) according to the Zoning By-law. The permitted uses include:

- a) One single detached dwelling;
- b) Accessory uses;
- c) Home occupations.

A previous minor variance application was heard, and approved by the Committee of Adjustment in 2018 to reduce the Minimum Lot Frontage requirement from 19m to 15.38m (file A11/2018P). Any future development other than that which is currently permitted under Section 13 (one single detached dwelling) would require a Zoning By-law Amendment.

Agency & Public Comments

In accordance with the *Planning Act*, on January 31, 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 (July 25, 2018)
 - No objections.
- Public Works Department (February 25, 2020)
 - No objections, see conditions.

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

Planning Staff Comments

The subject application deals with the severance of one single detached residential lot at 1295 Pelham Street from a large southerly side yard. The consent application also seeks to convey a perpetual easement over Part 3 in favour of Part 2 for an existing sanitary sewer lateral. One new single detached residential building lot would result from the proposed severance.

A pre-consult was held with the applicant(s) of the property and staff from the Town and Niagara Region Planning & Development Services on Thursday, November 2, 2017 to discuss the subject application.

It should be noted that a previous severance application to create a new building lot was made under file B4/2018P. The Committee of Adjustment approved this severance on August 14th 2018. However, the conditions of approval needed to be fulfilled within the 1-year statutory period (ending August 13th 2019), which they were not. One of the original conditions required a separate application be made for approval to convey a perpetual easement (Part 3) for an existing sanitary lateral in favour of the existing dwelling on Part 2. Due to the fact that this condition, (as well as others) were not satisfied in time, the original consent approval had lapsed, therefore a new severance application was commenced by the owner. Now the resubmitted consent application seeks to convey the perpetual easement simultaneously.

The subject lands are located on the east side of Pelham Street, just south of Pancake Ln / John Street and is surrounded by single detached residential dwellings from all directions except the west which supports a funeral home and low-rise apartment buildings.

A Planning Justification Report, prepared by Sullivan Planning Services Inc. dated January 23rd 2020 was submitted by the applicant helping to detail the purpose, nature of the application and applicable policies.

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. The proposed severance is considered to be a *gentler* form of residential intensification, as in there minimal neighbourhood disruption, limited demolition is warranted and the impacts are rather benign.

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 severance should not negatively impact the surrounding neighbourhood with regards to traffic, privacy and storm water runoff. The subject 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 the consent known as file B6/2019P **be granted**, and subject to the following conditions:

THAT the applicant

- Submit a comprehensive overall Lot Grading & Drainage Plan for all parcels demonstrating that the drainage neither relies upon, nor negatively impacts neighbouring properties, to the satisfaction of the Director of Public Works.
- Ensure Part 1 is serviced at Pelham Street 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. If existing services are proposed for reconnection, such services shall be inspected by the Public Works Department to determine their condition is satisfactory prior to connection. The applicant shall bear all costs associated with these works.
- Ensure that the remnant land (Part 2) continue to be adequately serviced to the satisfaction of the Public Works Department.
- Submit locate cards for both lots, confirming no existing water or sanitary services branch from or through the proposed lots, save for the existing sanitary lateral on Part 3. Locate cards shall be required after the installation of new services.
- Obtain approval for a Driveway Entrance & Culvert Permit for the new lot issued through the Public Works Department, to Town standards. The applicant shall bear all costs associated with these works.
- Conduct an archaeological assessment and receive clearance from the Ministry of Tourism, Culture, and Sport.
- Remove the wall attached to the existing dwelling that encroaches upon Parts 1 & 3, to the satisfaction of the Director of Community Planning & Development.
- 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.
- Provide the Secretary-Treasurer with a registerable 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.
- Provide 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.

Prepared by,



Curtis Thompson, B.URPI
Planner

Approved by,



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

Memorandum

Public Works Department - Engineering

DATE: February 25, 2020
TO: Curtis Thompson, Planner
CC: Nancy J. Bozzato, Clerk; Holly Willford, Deputy Clerk; Derek Young, Manager of Engineering
FROM: Tolga Aydin, Engineering Technologist
RE: File B6/2020P
1295 Pelham Street

We have completed the review of the consent application B6/2020P for consent to convey 1479.8 square meters of land with a dwelling known municipally as 1295 Pelham Street, for continued residential use, together with an easement in perpetuity over 110 square meters of land (Part 3) for an existing sanitary sewer lateral connection in favour of Part 2. 749.9 square meters of land (Parts 1 and 3) is to be retained for construction of a residential dwelling, subject to the easement.

This application is being considered concurrently with minor variance file A11/2018P.

Upon this review, Public Works has the following proposed **conditions**:

1. That the applicant submits a comprehensive overall lot grading and drainage plan for all parcels to demonstrate that the drainage neither relies nor negatively impacts neighbouring properties, and that all drainage will be contained within the respective lots, to the satisfaction of the Director of Public Works or designate.
2. That the applicant ensures that all lots are serviced with individual 20mm water service and 125mm sanitary sewer lateral in accordance with Town of Pelham standards. Installation of any missing services will require authorization obtained and approved by the Public Works Department through a Temporary Works Permit. The provision of all services shall be completed

prior to consent and the applicants shall bear all costs associated with these works (design, construction, etc.).

3. That the applicant submits locate cards that indicate the location of the individual water service and sanitary sewer lateral for both lots to confirm no existing water or sanitary services branch from or through the proposed lots to other lands, and from or through the remaining parcel to other lands. Locate cards shall be submitted after the installation of new services.
4. That the applicant obtain approval through an Entrance & Culvert Permit from the Public Works Department for the installation of a new entrance or modification to an existing entrance for all lots in accordance with Town standards. Installation and/or modification of all entrances shall be completed in accordance with Town standards prior to consent and the applicant shall bear all costs associated with these works (design, construction, etc.).

Public Works has the following proposed **comments**:

1. Based on the 2011 Development Agreement for Stella Street, the referenced drawing indicates that services for 1295 Pelham Street branch through 52 Stella Street and into an easement at the rear along the south property line. These services will need to be located and confirmed. If the services for 1295 Pelham Street are confirmed to branch through 52 Stella Street, an alternative option of severance will need to be considered or an easement over the new proposed parcel (Part 1) shall be proposed.

To: Nancy Bozzato, Holly Willford

Cc: Curtis Thompson, Sarah Leach

From: Belinda Menard, Building Intake/Plans Examiner
Community Planning & Development

Date: February 18, 2020

Subject: Building Comments on Applications to the Committee of Adjustment for
Consents/Minor Variances – February 20, 2020 hearing. **File B6/2019P**

Comment:

- Building offers no comment at this time.

Belinda Menard
Building Intake/Plans Examiner
Community Planning & Development

From: [Sarah Leach](#)
To: [Holly Willford](#)
Subject: FW: Pelham Committee of Adjustment Notices - 905-20-062
Date: Tuesday, February 11, 2020 9:50:07 AM



Sarah Leach, BA.
Administrative Assistant to the Clerk
Town of Pelham
T: 905-892-2607 x322 | E: sleach@pelham.ca
20 Pelham Town Square | PO Box 400 | Fonthill, ON | L0S 1E0

TOWN OF PELHAM CONFIDENTIALITY NOTICE

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From: Gordon, Carrie <carrie.gordon@bell.ca>
Sent: Tuesday, February 11, 2020 9:35 AM
To: Sarah Leach <SLeach@pelham.ca>
Subject: RE: Pelham Committee of Adjustment Notices - 905-20-062

Dear Mandy,

RE : B6/2019P

- Severance Application
- 1295 Pelham St
- Pt Lot 173 frmr Twp Thorold, now Town of Pelham

Subsequent to review by our Engineering Department, Bell Canada confirms that we have no objections with the proposed Severance.

If you have any questions or concerns regarding this response, please do not hesitate to contact me.

Best regards,

Carrie Gordon



External Liaison – Right of Way Control Centre
140 Bayfield St, Fl 2

Barrie ON, L4M 3B1
T: 705-722-2244/844-857-7942
F :705-726-4600

From: Sarah Leach <SLeach@pelham.ca>
Sent: Friday, January 31, 2020 10:45 AM
To: ROWCC <rowcentre@bell.ca>
Subject: [EXT]Pelham Committee of Adjustment Notices

Good morning,

Attached, please find:

- Notice of Hearing for Pelham minor variance A8/2020P
- Notice of Hearing for Pelham consent B6/2019P

Thank you,
Sarah



Sarah Leach, BA.
Administrative Assistant to the Clerk
Town of Pelham
T: 905-892-2607 x322 | E: sleach@pelham.ca
20 Pelham Town Square | PO Box 400 | Fonthill, ON | L0S 1E0

TOWN OF PELHAM CONFIDENTIALITY NOTICE

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March 3, 2020

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

Re: Consent Application B3/2020P
31 Emmett Street, Pelham
Lot 56 and Part of Lot 55 on Plan 658
Roll No. 2732 030 004 07400

The subject land, (Part 3 on sketch) has 1.524 m of frontage on the north side of Emmett Street, lying west of Station Street, known locally as 31 Emmett Street, in the Town of Pelham.

Application is made for consent to convey 75.25 m² of land (Part 3) to merge with the abutting land (Part 2) for future residential use. Part 1 is being retained for a future residential use also. The existing dwelling and garage have now been removed. The application is to convey a boundary adjustment to equalize the lot frontages and lot areas of two existing lots of record.

Applicable Planning Policies

Planning Act (Consolidated July 2016)

Section 51 (24) states that when considering the division of land, regard shall be had to the health, safety, convenience, accessibility and welfare of the present and future inhabitants of the municipality and among other things to,

- a) The development's effect on provincial matters of interest;
 - ✓ See PPS and Growth Plan analyses below.
- b) Whether the proposed subdivision is premature or in the public interest;
 - ✓ The neighbourhood block's parcel fabric is highly fragmented with a traditional lotting geometry. The lands to the rear have already been further subdivided with little potential for any further lot creation. Because of this, future (internal) block developments are unlikely as any common infill proposal would likely continue to utilize the existing street frontages available to them, both for practical and economic reasons. Planning staff are of the opinion this boundary adjustment application would not be consider premature and upholds the public interest.
- c) Whether the plan conforms to the Official Plan and adjacent plans of subdivisions, if any
 - ✓ See Official Plan analysis below. The proposed lot does not compromise the adjacent subdivision parcel fabric.
- d) The suitability of the land for such purposes;
 - ✓ The lands (neighbourhood) are predominantly one of lower density with ground-oriented

residential dwellings. At this time, both lots will be used for single detached residences consistent with the neighbourhood. The boundary adjustment will equalize the lot sizes of both existing parcels.

- f) The dimensions and shapes of the proposed lots;
 - ✓ The proposed lot dimensions and shape are consistent with traditional neighbourhood development standards and can comfortably site a new dwelling.
- h) Conservation of natural resources and flood control;
 - ✓ Notwithstanding select deciduous trees, no natural resources are impacted because of this redevelopment. An overall Lot Grading & Drainage Plan is required as a condition of this severance approval to avoid future localized flooding under typical storm events.
- i) The adequacy of utilities and municipal services;
 - ✓ Available.
- j) The adequacy of school sites
 - ✓ Available and within walking distance.

Section 53 (1) states a land owner may apply for a consent and the council may, subject to this section, give a consent if satisfied that a plan of subdivision is not necessary for the proper and orderly development of the municipality.

The proposed boundary adjustment seeks to equalize both lot frontages and lot areas. There is also no impact on the environment, schools or municipal services as both lots already exist and municipal water and sanitary sewers already front the property.

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 1.1.3.2 Land use patterns within *settlement areas* shall be based on (among others):

- a) Densities and a mix of land uses which:
 - 1. Efficiently use land and resources;
 - 2. Are appropriate for, and efficiently use, the *infrastructure* and *public service facilities* which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion.

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 reconfigured lots will continue to comply with the Zoning By-law and represent traditional lot geometry.

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 would be required as a condition of approval. However, given that the property

The proposed boundary adjustment seeks to equalize both lot frontages and preserve the right to build one new residential dwelling on each existing lot of record, which helps increase housing supply and achieving *intensification* targets. 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.

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.

The subject property is within walking distance to Downtown Fonthill, two elementary school and institutional uses. The proposal does not directly facilitate any net increase of residential dwelling units as both parcels already exist. The proposed boundary adjustment does however equalize both lot frontages and lot areas.

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.

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 A2.7.2 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. However, given the size & location of the existing dwelling and detached garage, the property's ground is considered heavily disturbed. Therefore, Planning staff consider the need for an archaeological assessment redundant in this case and can waive the evaluation.

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, through the provision of detailed site plans and elevation plans, that such proposals will be respectful of, compatible with, and designed to be integrated with the neighbourhood they are proposed. This consent application is for a boundary adjustment, and not for the creation of a new residential building lot (*intensification*). Planning staff note that Emmett Street is characterized by many traditional homes with short front yard setbacks. Based on the current applicable zoning, any new dwelling could be located with a deep front yard setback, thereby diminishing the character of this part of Fonthill. At this time, the Town has limited mechanisms available to ensure the new dwelling is located generally in alignment with the neighbouring homes, as this is desirable for the streetscape. Planning staff encourage the applicant, or subsequent builder to be mindful of, and respect the neighbourhood character as the Official Plan policies express.

Policy D5.2.1 states that for any consent application, the Committee of Adjustment shall be satisfied that (among other things) the proposed lot:

- a) Fronts on and will be directly accessed by a public road;
✓ Yes.
- b) Will not cause a traffic hazard;
✓ No.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
✓ Yes.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
✓ Yes.
- e) Will not have a negative impact on the drainage patterns in the area;
✓ Grading & Drainage Plan required as a condition of approval.
- f) Will not affect the developability of the remainder of the lands, if they are designated for development by this Plan;
✓ No special land use plans or development considerations are native to this specific block. The boundary adjustment will not impede the ability for neighbouring lands to explore other redevelopment opportunities.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
✓ No issue.
- h) Conforms with Regional lot creation policy as articulated in the Regional Official Plan.
✓ Complies with Regional Official Plan. No new lot is being created as this is a boundary adjustment.
- i) Complies with the appropriate Provincial Minimum Distance Separation Formulae, where applicable.
✓ Not applicable.

Access to municipal services is available for the subject lands and will be addressed as part of the conditions of severance approval, along with drainage. The property is under a 10-minute walk to Glynn A. Green Elementary School and Downtown Fonthill.

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

The subject land is currently zoned 'Residential 2' (R2) according to the Zoning By-law. The permitted uses include:

- a) One single detached dwelling;
- b) Accessory uses;
- c) Home occupations.

The resulting lot configuration will continue to comply with applicable zoning regulations.

Agency & Public Comments

In accordance with the *Planning Act*, 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 (February 18, 2020)
 - A demolition permit was issued for the removal of the detached dwelling and accessory building.
- Public Works Department (February 25, 2020)
 - No objections, see conditions.

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

Planning Staff Comments

The subject application deals with a narrow boundary adjustment to convey a 1.5 m strip of land (Part 3) from Part 1 to the abutting parcel (Part 2) to provide two equal sized lots with symmetrical lot frontages and that more closely resemble the surrounding neighbourhood. No new residential building lots are being facilitated under the proposed consent application as both parcels legally exist as confirmed by external counsel.

A pre-consult was held with the applicant(s) of the property and staff from the Town and Niagara Region Planning & Development Services on Thursday, November 21, 2019 to discuss the site's development.

The subject lands are located on the north side of Emmett Street, situated in between Pelham Street to the west and Station Street to the east. The property is surrounded by single detached residences on all sides.

Planning staff have reviewed the Planning Justification Brief submitted by Upper Canada Consultants dated January 30, 2019, on behalf of the applicant and generally agree with its commentary.

Planning staff encourage the future dwellings to be situated near the road and in alignment with the existing dwellings along Emmett Street. Developing an exceedingly deep front yard setback should be avoided for urban design and streetscaping reasons.

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 severance should not negatively impact the surrounding neighbourhood with regards to traffic, privacy and storm water runoff.

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

Planning staff recommend that the consent known as file B3/2020P **be granted**, subject to the following conditions:

THAT the applicant

- Merge Part 3 with Part 2
- Submit a comprehensive overall Lot Grading & Drainage Plan for all parcels demonstrating that the drainage neither relies upon, nor negatively impacts neighbouring properties, to the satisfaction of the Director of Public Works.
- Ensure each lot is serviced with an individual 20 mm Ø water service and 125 mm Ø sanitary sewer lateral in accordance with Town specifications. Installation of any missing service(s) will require a Temporary Works Permit(s) to be obtained and approved by the Public Works Department. If existing services are proposed for reconnection, such services shall be inspected by the Public Works Department to determine their condition is satisfactory prior to connection. The applicant shall bear all costs associated with these works.
- Submit a drawing indicating the location of the individual water services 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.
- Obtain approval for a Driveway Entrance & Culvert Permit for each lot lacking street access or requiring modification, issued through the Public Works Department, to Town standards. The applicant shall bear all costs associated with these works.
- 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 for one lot, or both lots if no dwelling is rebuilt within 5 years from the issuance of the original demolition permit, prior to the issuance of a Building Permit.
- Provide the Secretary-Treasurer with a registerable 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.
- Provide 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.

Prepared by,



Curtis Thompson, B.URPI
Planner

Approved by,



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

Memorandum

Public Works Department - Engineering

DATE: February 25, 2020
TO: Curtis Thompson, Planner
CC: Nancy J. Bozzato, Clerk; Holly Willford, Deputy Clerk; Jason Marr, Director of Public Works
FROM: Tolga Aydin, Engineering Technologist
RE: File B3/2020P
31 Emmett Street

We have completed the review of the consent application B3/2020P for consent to partial discharge mortgage and to convey 75.25 square meters of land (Part 3), to be added to the abutting property (Part 2) for residential use. The application for boundary adjustment is intended to allow for the construction of a residential dwelling on Parts 2 and 3 and the removal and construction of a residential dwelling on Part 1. Part 1 is to be retained for continued residential use known municipally as 31 Emmett Street.

Upon this review, Public Works has the following comments;

1. Each lot is to be individually serviced a 20mm water and 123mm sanitary sewer lateral in accordance with Town of Pelham Engineering Standards. Installation of any missing services will require a Temporary Works Permit obtained through the Public Works Department. These works are to be completed prior to consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete.
2. That the applicant submits a drawing that indicates the location of the existing individual water service and sanitary lateral for all lots to confirm no existing services branch from or through the proposed lots to other lands, and from or through the remnant parcel to other lands.
3. That the applicant submits a comprehensive overall lot grading and drainage plan for all parcels to demonstrate that the drainage does not negatively

impact nor rely on neighbouring properties, to the satisfaction of the Director of Public Works or his designate.

4. That the applicant obtains a Driveway Entrance and Culvert Permit for the construction of all new or modification of existing driveways or entrances. Installation of entrances shall be in accordance with Town standards prior to consent and the applicant shall bear all costs associated with these works.

To: Nancy Bozzato, Holly Willford

Cc: Curtis Thompson, Sarah Leach

From: Belinda Menard, Building Intake/Plans Examiner
Community Planning & Development

Date: February 18, 2020

Subject: Building Comments on Applications to the Committee of Adjustment for
Consents/Minor Variances – March 3, 2020 hearing. **File B3/2020P**

Comment:

- A demolition permit has been issued and the detached dwelling and accessory building have already been demolished on Parts 1, 2 and 3.

Belinda Menard
Building Intake/Plans Examiner
Community Planning & Development

Emmett Ave. Watershed Problem

This is a missive from Carol and Mike Jones, residents of [REDACTED] Emmett Ave for the past 43 years. Considering the town's financial situation, we are not opposed to allowing double sized lots to be subdivided and additional single-family homes to be built on Emmett Ave and Alan Street. However, we feel it is our duty to warn you about any increase of homes being built prior to installing storm sewers (laterals). This will undoubtedly create a serious and ongoing problem for residents on the bottom of the street. This we believe this is putting the cart in front of the horse as they say. This letter is a history on the problems created by lack of actions on proper infrastructure in our area.

Throughout our lives on Emmet Ave. (as it was called when we first moved there) many Town Councils have acknowledged the need for major improvements to infrastructure on our Street. Many proposals to improve our community by Town planners, CAOs and other departments have been made but never implemented. Several projects, ranging from a properly built road, storm sewers (laterals), curbs and new trees have been ignored. Some were even passed by town council only to have the plans diverted. According to my sources, this exact lateral project, that is so essential has been diverted until 2024.

Our knowledge of this problem comes not only from our observations living at the same address, but also from our neighbours and attending the January Committee of Adjustments meeting concerning the Alan St. application. It is clear that lack of maintaining a proficient flow can be disastrous. Without laterals, water cannot flow efficiently due to branches, leaves, garbage, debris and other obstacles obstructing its path. The existing culverts are incapable of handling the amount of water flow from new builds. The most efficient way to collect overflow is at the source or as close as possible, and that is why the laterals must be installed and are the most efficient alternative to simple ditches.

When we first moved to the lovely little street of Emmett, our three-bedroom bungalow had ditches on three sides which took away most of the watershed. All these water ways provided enough to control our watershed and eliminated any flooding problems.

Since that time, many changes have occurred that have us, along with other residents, very concerned about our safety.

1) When the CN tracks were removed, our community green space and existing Steve Bauer Trail was lost and replaced by 6 new homes. That is when the larger CN ditch beside our home was filled. As the land settled, a new problem was created. During heavy storms, water began to pond and overflowed over driveways and into garages.

2) At this time, the ditches are not properly maintained by the town, which has become a major problem. Even the major connections to the Station Street ditch have been ignored on many different occasions when reported. We have personally witnessed our south neighbors' backyard completely flooded. They were forced to frantically unblock the ditch, which should have been the towns responsibility to allow the water to flow again.

3) In order to divert flooding away from the townhomes built on the old Fonthill Public School property, the town installed curbs and drains(laterals) which redirected the water under Pelham St. and directly into the northside ditch. This solved the flooding problem for the townhomes, but created a new one for residences. Now, during rainstorms, the flow of water entering our ditches is so powerful, it becomes a danger to children or adults if they happen to slip off the sidewalk and fall into the ditch.

This raging waterflow also causes it to spill out of the ditch and onto the road and into driveways which continually wreaks havoc in our neighborhood:

- Due to the increased saturation, [REDACTED] Emmett had a water spring develop under their front porch and continued to run nonstop down the street for more than a week until the town workers finally came to rectify this situation.
- Due to the increased saturation, the sump pump of [REDACTED] Emmett ran continually for days, until it finally broke down from over use. This caused a major flooding of their basement.
- Due to the watershed, [REDACTED] Emmett, had severe ground floor flooding on two different occasions. We witnessed the water seeping into the house under the front door. The amount of damaged items and drywall spread out on their lawn was alarming. In fact, the latest flood was the reason why the lower level was not finished before the new owner bought the house. We would have told him that if he had come by prior to buying that place to make an illegal duplex.
- [REDACTED] Emmett garage has had water seeping inside nearly every major rainstorm.

Now that the Alan St. application has been differed by the members from the Committee of Adjustments, along with another application to build additional homes on Emmett, we are more concerned than ever. As the effects of global warming will continue to create more extreme weather conditions, such as longer and heavier rainstorm during all seasons of the year, we urge you to take action and install these laterals immediately.

Common sense tells you not to put the cart before the horse, so please do your due diligence and build the new infrastructure *before* any additional developments as you would in any new subdivision. Doing so would eliminate risk of legal repercussions from property damage or personal harm caused by your inaction.

Respectfully submitted by:

Carol and Mike Jones

[REDACTED] Emmett St.
[REDACTED]

Meeting #: 11/2019
Date: Tuesday, November 5, 2019
Time: 4:00 pm
Location: Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

Members Present Donald Cook
Bernie Law
Bill Sheldon

Members Absent John Klassen
Sandra Marsh

Staff Present Nancy Bozzato
Holly Willford

1. Attendance

Applicants and Interest 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

None.

5. Applications for Minor Variance

5.1 A21/2019P - 594 River Road

Purpose of Application

Application for relief, pursuant to Section 7.4 (d) “Minimum Front Yard” to permit a front yard of 3.2m whereas the by-law requires 13m, Section 7.7 (a) “Maximum Lot Coverage (Accessory)” to permit a maximum lot coverage of an accessory building of 6.3% whereas the by-law permits 1%, Section 7.7 (a) “Maximum Lot Coverage (Overall)” to permit a maximum overall lot coverage of 13% whereas the by-law permits 10%; and Section 7.7 (d) “Maximum Accessory Building Height” to permit a maximum accessory building height of 7m whereas the by-law permits 3.7m.

Representation

The Applicant was present.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Public Works
3. Town of Pelham Building Department
4. Niagara Region Planning & Development Services
5. Niagara Peninsula Conservation Authority

Applicant's Comments

The Applicant indicated he had no comments.

Public Comments

There were no comments received from the public.

Members Comments

The Committee Members stated the conditions for approval should include conditions that the building permit shall not include living accommodations or plumbing within the accessory building and that a lot grading and drainage plan shall be submitted and that the property shall not negatively rely upon or impact any neighboring properties.

The Applicant requested the rescheduling fee to be waived as the Applicant felt he received the Niagara Peninsula Conservation Authority (NPCA) comments last minute.

Committee Members asked when the NPCA's comments had been received and if the comments were late. Mr. Curtis Thompson, Town Planner, indicated the original comments made by the NPCA were made on July 31st which are considered 'on-time'. Ms. Nancy Bozzato, Secretary-Treasurer to the Committee of Adjustment stated all minor variance applicants have the option to have a pre-consultation on their application in which the NPCA would have provided earlier comments and feedback.

The Committee Members refused to grant the wave of fees.

Moved By Bill Sheldon

Seconded By Bernie Law

Application is made for relief of Section 7.4 (d) "Minimum Front Yard" to permit a front yard of 3.2m whereas the by-law requires 13m, Section 7.7 (a) "Maximum Lot Coverage (Accessory)" to permit a maximum lot coverage of an accessory building of 6.3% whereas the by-law permits 1%, Section 7.7 (a) "Maximum Lot Coverage (Overall)" to permit a maximum overall lot coverage of 13% whereas the by-law permits 10%; and Section 7.7 (d) "Maximum Accessory Building Height" to permit a maximum accessory building height of 7m whereas the by-law permits 3.7m., is hereby: GRANTED.

The above decision is based on the following reasons:

- 1. The variance is minor in nature and sufficient information exists to ensure the garage will be safely located away from the *stable top-of-slope* and to minimize any adverse impacts to the regulated hazard lands**
- 2. The general purpose and intent of the Zoning By-Law is maintained.**
- 3. The intent of the Official Plan is maintained.**
- 4. The proposal is desirable for the use of the land as the garage will provide additional storage space**
- 5. This application is granted without prejudice to any other application in the Town of Pelham.**

6. **No objections were received from commenting agencies or abutting property owners.**
7. **The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.**

The above decision is subject to the following conditions:

1. **That an NPCA Work Permit be issued prior to the issuance of a building permit.**
2. **That all necessary building permits are required prior to construction commencing to the satisfaction of the Chief Building Official and shall not include living accommodations or plumbing within the accessory building.**
3. **That an overall Lot Grading Plan & Drainage Plan at building permit stage in accordance with Official Plan policy B3.7.3.1 and the Slope Stability Assessment construction recommendations (prepared by, Soil-Mat Engineers & Consultants Ltd. dated Sep 6, 2019), to the satisfaction of the Director of Public Works and Director of Community Planning & Development, and that the property shall not negatively rely upon or impact any neighbouring properties.**

Carried

Moved By Bill Sheldon
Seconded By Bernie Law

THAT the Committee does not waive and maintains the rescheduling fee of \$220.00.

Carried

5.2 A25/2019P - 749 Foss Road

Purpose of Application

Application for relief, pursuant to Section 7.7 (a) “Maximum Lot Coverage (Accessory)” to permit a maximum lot coverage of an accessory building of 2.5% whereas the by-law permits 1%, and Section 7.7 (d) “Maximum Accessory Building Height” to permit a maximum accessory building height of 5.15m whereas the by-law permits 3.7m.

Representation

The Applicant was present.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Public Works
3. Town of Pelham Building Department
4. Niagara Region Planning & Development Services

Applicant's Comments

The Applicant asked questions regarding the condition of ‘slab on-grade’ style flooring. Through discussion with the Committee Member’s the Applicant was comfortable with the condition.

Public Comments

There were no comments received from the public.

Members Comments

The Committee Members indicated the conditions of approval shall be those requested within the Planning Report.

Moved By Bernie Law

Seconded By Bill Sheldon

Application is made for relief of Section 7.7 (a) “Maximum Lot Coverage (Accessory)” to permit a maximum lot coverage of an accessory building of 2.5% whereas the by-law permits 1%, and Section 7.7 (d) “Maximum Accessory Building Height” to permit a maximum accessory building height of 5.15m whereas the by-law permits 3.7m, is hereby: GRANTED.

The above decision is based on the following reasons:

- 1. The variance is minor in nature given the rural context and as adequate land area remains available to handle stormwater runoff, the septic system and preserve a rear yard amenity area.**
- 2. The general purpose and intent of the Zoning By-Law is maintained.**
- 3. The intent of the Official Plan is maintained.**
- 4. The proposal is desirable for the use of the land as it will allow for enhanced use of the property.**
- 5. This application is granted without prejudice to any other application in the Town of Pelham.**
- 6. No objections were received from commenting agencies or abutting property owners.**
- 7. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.**

The above decision is subject to the following conditions:

To the satisfaction of the Chief Building Official

- 1. That all necessary building permits are required prior to construction commencing and shall not be approved for any living accommodations or plumbing within the accessory building.**
- 2. That all necessary demolition permits are required for the existing shed (to be removed) if the said shed is over 10 m²**
- 3. That the accessory building foundation be slab on-grade style construction, (with no basement or traditional footings that require deep excavation).**

Carried

5.3 A24/2019P - 70 Bergenstein Crescent

The Applicant and / or Authorized Agent was not present at the meeting.

Ms. Nancy Bozzato, Secretary Treasurer of the Committee of Adjustment, indicated the Committee may proceed without the Applicant if the Committee wishes. The Committee determined to proceed without the presence of the Applicant.

Purpose of Application

Application for relief, pursuant to Section 6.35 (c) "Yard Encroachments – Unenclosed Porches" to permit a porch height of 2.86m whereas a porch height of 1.3m above ground is allowed to encroach 1.5m.

Representation

The Applicant and / or Authorized Agent was not present.

Correspondence Received

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

Applicant's Comments

The Applicant or Authorized Agent was not present.

Public Comments

There were no comments received from the public.

Members Comments

There were no comments made by the Committee.

Moved By Bill Sheldon

Seconded By Bernie Law

THAT the Committee proceed with Application A24/2019P – 70 Bergenstein Crescent without the Applicant present.

Carried

Moved By Bill Sheldon
Seconded By Bernie Law

Application is made for relief of Section 6.35 (c) “Yard Encroachments – Unenclosed Porches” to permit a porch height of 2.86m whereas a porch height of 1.3m above ground is allowed to encroach 1.5m, is hereby: GRANTED.

The above decision is based on the following reasons:

- 1. The variance is minor in nature and no negative impacts are anticipated by the adjacent neighbours or the users of the nearby trail.**
- 2. The general purpose and intent of the Zoning By-Law is maintained.**
- 3. The intent of the Official Plan is maintained.**
- 4. The proposal is desirable for the use of the land as it will provide a larger porch footprint, enhancing the properties usability for recreation and livability.**
- 5. This application is granted without prejudice to any other application in the Town of Pelham.**
- 6. No objections were received from commenting agencies or abutting property owners.**
- 7. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.**

The above decision is subject to the following conditions:

- 1. That all necessary building permits are required prior to construction commencing to the satisfaction of the Chief Building Official**

Carried

6. Applications for Consent

None.

7. Minutes for Approval

Moved By Bill Sheldon

Seconded By Donald Cook

That the minutes of the July 9, 2019, Committee of Adjustment Hearing be approved.

Carried

Moved By Donald Cook

Seconded By Bill Sheldon

That the minutes of the September 10, 2019, Committee of Adjustment Hearing be approved.

Carried

Moved By Bernie Law

Seconded By Donald Cook

That the minutes of the October 1, 2019, Committee of Adjustment Hearing be approved.

Carried

8. Adjournment

Moved By Bernie Law

Seconded By Bill Sheldon

BE IT RESOLVED THAT this Meeting of the Committee of Adjustment Hearing be adjourned until the next regular meeting scheduled for December 3rd, 2019 at 4:00 pm.

Carried

Don Cook, Chair

Secretary-Treasurer, Nancy J. Bozzato