

Committee of Adjustment AGENDA

CofA 11/2020

November 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. **A27/2020P - 571 Roland Road**
 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. NPCA
 6. Callum and Faye Shedden

1

6. Applications for Consent

6.1. B9/2020P - 1431 Station Street

12

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

6.2. B10/2020P - 1012 Cream Street

23

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. NPCA

7. Minutes for Approval

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February 25 2020

March 3, 2020

July 21, 2020

August 11, 2020

August 17, 2020 (General Meeting)

8. Adjournment

November 3, 2020

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

Re: Minor Variance Application A27/2020P
571 Roland Road, Pelham
Concession 2, Part of Lot 11 and Part 1 on RP 59R-591
Roll No. 2732 010 007 10400

The subject land is located on the north side of Roland Road, lying east of Cream Street, legally described above, and known locally as 571 Roland 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 minor variance application requests relief from:

- i. **Section 7.4 (d) "Minimum Front Yard"** seeking 8.7 m, whereas 13 m is required, to both recognize the existing *legal non-complying* dwelling and to permit a new covered porch.

Applicable Planning Policies

Provincial Policy Statement (PPS) (2020)

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 'Prime Agricultural Area' according to the PPS. 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).

Greenbelt Plan (2017)

The subject land is designated 'Tender Fruit & Grape Lands' (*Specialty Crop Area*) within the Greenbelt Plan's *Protected Countryside*.

Section 3.1.2 (Specialty Crop Area Policies) states that for lands falling within *specialty crop areas* of the *Protected Countryside* all types, sizes and intensities of agricultural uses and *normal farm practices* shall be promoted and protected.

The proposed residential addition is small in scale and does not compromise the ability for the subject land to be farmed.

Regional Official Plan (Consolidated August 2014)

The Regional Official Plan designates the subject parcel as 'Protected Countryside' and 'Unique Agricultural Area'.

Policy 5.B.6 states single dwellings are permitted on existing lots of record provided they were zoned for such as of December 16, 2004.

Policy 10.C.2.1.13 states that *development* and *site alteration* shall only be permitted on lands containing *archaeological resources* or *areas of archaeological potential* if the significant *archaeological resources* have been *conserved* by removal and documentation, or by preservation on site.

The proposed covered porch is situated within 2.3 m of the existing house foundation which is reasonable to assume has been significantly disturbed from the home's construction in the early 1900s.

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 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 A2.1.2 states the objective of the Official Plan is to make planning decisions that consider the health and integrity of the broader landscape as well as long term cumulative impacts on the ecosystem. Planning decisions should also restrict and regulate land uses which could impact the water quality and hydrological and hydrogeological characteristics of watercourses, aquifers and wetlands.

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. This is likely a result of its proximity to a historic transportation route. Considering the proposed covered porch extends no further than approximately 2 m from the original dwelling's foundation, Town staff are comfortable waiving the requirement for an archaeological evaluation with the reasonable expectation that these lands have been significantly disturbed.

The proposed development application was accompanied by a Site Plan prepared by an *Ontario Land Surveyor*, constructions plans and building Elevation Plans. The Region of Niagara, whom is responsible for reviewing private sewage servicing on all rural properties has advised that they have no objections. Planning staff are of the opinion the proposed variance will conform to the Official Plan.

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

The subject land is zoned 'Agricultural' (A) in accordance with Pelham Zoning By-law 1136 (1987), as amended. The minor variance application requests relief from:

- ii. **Section 7.4 (d) "Minimum Front Yard"** seeking 8.7 m, whereas 13 m is required, to both recognize the existing *legal non-complying* dwelling and to permit a new covered porch.

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 reduction of the minimum front yard setbacks is minor overall because it will help to improve the Roland Road streetscape by enhancing the traditional architectural design of the early 20 th century brick dwelling. The proposed covered porch is an appropriate development for a dwelling which currently lacks a practical front porch and amenity area.
2. The variance is desirable for the development or use of the land.	The reduction of the minimum front yard setback is desirable because it will allow for improved living arrangements and usage of the existing <i>legal non-complying</i> dwelling with a covered front amenity area. The proposed addition will also help improve the Roland Road public streetscape through enhanced architectural design.
3. The variance maintains the general intent and purpose of the Official Plan.	The variance maintains the general purpose and intent of the Official Plan because it does not compromise the rural character of the neighbourhood, nor does it prevent the ability for the site from being adequately serviced with a private septic system. The rural community character will be maintained, the use is permitted, and no adverse impacts are anticipated regarding water quality, hydrogeology and stormwater runoff.
4. The variance maintains the general intent and purpose of the Zoning By-law.	The variance maintains the general intent of the Zoning By-law because the requested setback reduction recognizes the existing <i>legal non-complying</i> dwelling and allows for the logical, and appropriate extension of the dwelling while still maintaining adequate setbacks from the travelled roadway, and usable land for the private sewage system.

Agency & Public Comments

On October 8, 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:

- Niagara Peninsula Conservation Authority (October 21, 2020).
 - No objections.
- Niagara Region (October 20, 2020)
 - No objections.
- Building Department (October 26, 2020)
 - Building permit(s) are required.
- Public Works Department (October 23, 2020)
 - No comments.

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

Planning Staff Comments

The subject lands are located on the north side of Roland Road, lying east of Cream Street. The property is surrounded by agricultural farms and rural residential dwellings. A Pre-Consultation meeting was held with the applicants, Town staff and NPCA staff on August 6th 2020 to discuss the subject application and requirements for a complete submission.

The proposed minor variance application seeks zoning relief to recognize the existing *legal non-complying* front yard setback of the original dwelling and to allow for a reduced front yard setback to facilitate a new covered porch. The applicant has also advised that in the past, there used to be a more substantial covered porch which was removed.

Town Planning staff are of the opinion the proposed covered wrap-around porch is a logical, and rather efficient enhancement of the existing dwelling in order to gain additional amenity area and improve use of the property.

Planning staff are of the opinion that the proposal applies current planning and development principles dealing with appropriate rural residential development and streetscape design. The proposed minor variances should not negatively impact the surrounding land uses with regards to land use incompatibility, 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.

Given this analysis, Planning staff recommend that minor variance file A27/2020P **be approved**.

Prepared by,



Curtis Thompson, B.URPI
Planner

Approved by,



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

Memorandum

Public Works Department - Engineering

DATE: October 23, 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 A27/2020P
571 Roland Road

Public Works has completed a review of the minor variance application A27/2020P for relief of Pelham Zoning By-Law 1136(1987), as amended. The application is made to seek relief from the following:

- Section 7.4 (d) Minimum Front Yard Setback – to permit a minimum front yard setback of 8.7 meters whereas the by-law requires 13 meters.

Public Works has no comments.

To: Holly Willford

Cc: Curtis Thompson, Sarah Leach

From: Dave Christensen, Building Intake/Zoning Technician
Community Planning & Development

Date: October 26th, 2020

Subject: Building Comments on Applications to the Committee of Adjustment for
Consents/Minor Variances – November 3rd, 2020 Hearing

Comment for Re: File # A27/2020P 571 Roland Rd.

The building department offers the following comment,

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

Comment for Re: File # B9/2020P - 1431 Station St. & B10/2020P - 1012 Cream St..

The building department offers the following comment,

- No comment

Kind Regards,

David Christensen, BSc (Hons), Adv. Dip.
Building Intake & Zoning Technician
dchristensen@pelham.ca

Via Email Only

October 20, 2020

Our File: MV 20-0044

Nancy Bozzato
Town Clerk/Secretary-Treasurer
Town of Pelham
20 Pelham Town Square P.O.Box 400
Fonthill Ontario
L0S 1E0

Dear Ms. Bozzato,

Re: Application for Minor Variance

Location: 571 Roland Road, Town of Pelham

Town File: A27/2020P

Private Sewage System inspection staff have reviewed the application to construct a covered wrap around porch onto the existing dwelling.

According to our records a sewage system was installed in 2001 and approved by the Regional Public Health Department. However, no records were found indication that a final use permit was ever issued. The septic tank was located west of the dwelling and is connected to a raised tile bed to the north. No defects were observed with the sewage system at the time of our inspection. The covered porch will not encroach on the existing sewage system and will not contribute to an increase in sewage flows on the property. The property contains enough usable land for a replacement system in the future when required.

Therefore, our department has no objection to the application as submitted.

Yours truly,



Caitlin Goodale
Private Sewage Systems Inspector

Cc: Matteo Ramundo, Development Approvals Technician Niagara Region

October 21, 2020

Our File No.: PLMV202001079

BY E-MAIL ONLY

Town of Pelham
Planning Department/Committee of Adjustment
20 Pelham Town Square,
P.O. Box 400,
Fonthill ON
L0S 1C0

Attention: Nancy Bozzato, Secretary Treasurer of the Committee of Adjustment

Subject: Application for Minor Variance, (A27/2020P)

571 ROLAND RD
ARN 273201000710400

NPCA staff have reviewed the above noted application and offer the following comments.

Application **A27/2020P** is made to permit a minimum front yard setback of 8.7m whereas the by-law requires 13m.

The Niagara Peninsula Conservation Authority staff have reviewed the regulated mapping for the subject property and note that property is impacted by the NPCA Regulated watercourse.

NPCA Policy

NPCA Policies, Procedures and Guidelines for the Administration of Ontario Regulation 155/06 and Land Use Planning Policy Document.

The NPCA regulates watercourses, flood plains (up to the 100 year flood level), Great Lakes shorelines, hazardous land, valleylands, and wetlands under *Ontario Regulation 155/06 of the Conservation Authorities Act*. The NPCA's *Policies for the Administration of Ontario Regulation 155/06 and The Planning Act*. (NPCA policies) provides direction for managing NPCA regulated features.


The subject property is bisected at the middle north by a regulated watercourse with a 15 metre buffer.

The NPCA is satisfied that there will be no negative impacts to the regulated watercourse for the proposed Minor Variance application, and that is it consistent with NPCA policy.

Conclusion

The NPCA has no objections to the proposed Consent Application **A27/2020P** at this time. Any proposed developments within 15 metres of the regulated watercourse will require review and approval from our office.

Yours truly,

A handwritten signature in black ink, appearing to read 'Nicholas Godfrey', with a large, sweeping flourish extending to the right.

Nicholas Godfrey,
Watershed Planner
(905) 788-3135, ext. 278

Sarah Leach

From: Nancy Bozzato
Sent: Wednesday, October 28, 2020 5:31 PM
To: Holly Willford; Curtis Thompson; Sarah Leach
Subject: Fwd: Committee of Adjustment File A27/2020P - 571 Roland Road, Pelham

Sent from my iPhone

Begin forwarded message:

From: Callum Shedden [REDACTED]
Date: October 28, 2020 at 5:11:25 PM EDT
To: Nancy Bozzato <NBozzato@pelham.ca>
Cc: "Faye Shedden" [REDACTED]
Subject: Committee of Adjustment File A27/2020P - 571 Roland Road, Pelham

Dear Ms. Bozzato

I along with my wife Faye are the owners of [REDACTED] Roland Road, being the property immediately to the west of the subject property.

I am writing this email to indicate our full support for the minor variance requested by our neighbor. The variance will have no negative impacts on anyone residing on Roland Road. The existing home is a very nice older farm house which will be made even better by proposed wrap-around porch.

Sincerely

Callum and Faye Shedden

Daniel & Partners LLP
LAWYERS
39 Queen Street, P.O. Box 24022
St. Catharines ON L2R 7P7 Canada
Tel: 905-688-9411 Fax: 905-688-5747
www.niagaralaw.ca

95
YEARS
1922-2017



Daniel &
Partners LLP
LAWYERS

This e-mail communication is CONFIDENTIAL AND LEGALLY PRIVILEGED. If you are not the intended recipient, please notify me at the telephone number shown above or by return e-mail and delete this communication and any copy immediately. Thank you.

November 3, 2020

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

Re: Consent Application B9-2020P
1431 Station Street, Pelham
Part of Lot 5, Plan 717
Roll No. 2732 030 004 02100

The subject parcel, shown as Part 2 on the attached sketch, is an interior parcel of land situated 61 m east of Station Street, lying south of Highway 20 East (Regional Road 20), legally described above, in the Town of Pelham.

Application is made for consent to partial mortgage discharge and to convey 2,850.3 m² of land (Part 2) to merge with the abutting property to the south (Parts 3 – 4 being 1419 Station Street). 1,269.6 m² of land (Part 1) is to be retained for continued residential use of the single detached dwelling known as 1427 Station Street.

Note: The boundary adjustment is intended to facilitate rear yard land consolidation for a future draft plan of subdivision in East Fonthill.

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;
- b) Whether the proposed subdivision is premature or in the public interest;
- c) Whether the plan conforms to the Official Plan and adjacent plans of subdivisions, if any
- d) The suitability of the land for such purposes;
- f) The dimensions and shapes of the proposed lots;
- h) Conservation of natural resources and flood control;
- i) The adequacy of utilities and municipal services;
- j) The adequacy of school sites

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 set the stage for a future residential subdivision development by consolidating the large, underutilized rear yard open space into a more productive urban development on lands designated for intensification.

Provincial Policy Statement (PPS) (2020)

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 development.

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 reassembly of land in this area will facilitate future redevelopment and intensification in a more compact form that minimizes the waste of under-utilized *urban land*.

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.

The proposed boundary adjustment will help consolidate large sections of underutilized urban land and simplify future development within a *settlement area* where existing services are available and allow the opportunity for a mix of housing options that contribute to a more *complete community*.

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 boundary adjustment conforms to the Regional Official Plan because the lands will be more appropriately suited to accommodate a future draft plan of subdivision or draft plan of condominium.

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 both 'Downtown Transitional Area' (to the west) and 'East Fonthill Secondary Plan Area' (to the east) and also inside the Built Boundary in the Official Plan. According to Schedule A4 (Urban Structure Plan) of the East Fonthill Secondary Plan, the subject land is located within 'Neighbourhood 1' and within the 'Built Boundary'. According to 'Appendix A' (Demonstration Plan) & Schedule A5 (Land Use Plan), the subject land is designated 'EF – Low Density Residential' (to the east).

It should be noted that Policy B1.7.2 distinguishes between the intensification targets of the 'greenfield' areas and lands within the 'built boundary'. The development proposal will be subject to the appropriate intensification target which will be revisited at the draft plan of subdivision stage.

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;
✓ Unchanged.
- b) Will not cause a traffic hazard;
✓ Unchanged.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
✓ Unchanged.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
✓ Unchanged.
- e) Will not have a negative impact on the drainage patterns in the area;
✓ No concern.
- f) Will not affect the developability of the remainder of the lands, if they are designated for development by this Plan;

- ✓ Conforms because the large rear yards will be maintained for an eventual draft plan of subdivision / development application while the existing dwellings maintain a smaller lot area with direct frontage on Station Street.
- 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.
 - ✓ No issue from Region in accordance with Memorandum of Understanding.
- i) Complies with the appropriate Provincial Minimum Distance Separation Formulae, where applicable.
 - ✓ Not applicable.

It is noted that the application is for consent to partial mortgage discharge and to convey vacant land (Part 2) to be added to the abutting lot to the south (Part 3) for continued residential use. A new lot will not be created as a result of this consent. Part 1 will be retained for continued single detached residential use.

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

Part 1 is currently zoned 'Residential 2' (R2) while Part 2 is zoned 'Agricultural' (A) according to the Zoning By-law. The permitted uses (among others) include:

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

The resulting parcel configuration will continue to comply with all applicable zoning regulations. Any future development on Parts 2-4 beyond that which is permitted under Section 13 (one single detached dwelling) would require a Zoning By-law Amendment.

Agency & Public Comments

On October 8, 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:

- Corporate Services Department (October 8, 2020)
 - See conditions.
- Building Department (October 26, 2020)
 - No comments.
- Public Works Department (October 23, 2020)
 - See conditions.
- Niagara Peninsula Conservation Authority (October 21, 2020)
 - No objections.

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

Planning Staff Comments

The subject application deals with the severance of a rear yard to consolidate with a neighbouring lot for the purposes of a forthcoming draft plan of subdivision. The application for consent to partial mortgage discharge and to convey 2850.3 m² of land will help facilitate the orderly development of future urban growth within the East Fonthill Secondary Plan area.

A pre-consult meeting was held with the applicant(s) of the property and staff from the Town and Niagara Region Planning & Development Services on August 20, 2020 to discuss the subject application. A *Planning Justification Brief* prepared by Upper Canada Consultants accompanied with the consent application.

The subject lands are located on the east side of Station Street, lying north of Summersides Boulevard and are surrounded by:

- North – Single detached residential
- East – Vacant land
- South – Single detached residential
- West – Elementary school / hydro utility

Planning staff visited the site and reviewed aerial photography to better understand the local context. Summersides Boulevard to the south, has been constructed which now connects Station Street to Rice Road. This area of Station Street is characterized by many large lot single detached residences flanking the east side.

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 severance will better position the lands for future subdivision development in a more efficient manner which will not negatively affect the developability of the balance of the lands. The proposed severance should not negatively impact the surrounding neighbourhood with regards to traffic, privacy and storm water runoff. The remnant lands will continue as a single detached residential use until such time as the land owner explores alternative development options.

It is noted that the anticipated development of Parts 2 – 4 (1419 Station Street) will be subject to future *Planning Act* approvals such as a Zoning By-law Amendment, and subdivision or condominium approval which will be subject to future public consultation at that time, pending a formal development proposal. This severance (boundary adjustment) application is the initial step to better assemble / consolidate land before proceeding with detailed planning and development engineering design. The next step will be for the owner to propose a development plan that provides a future land use.

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

Given this analysis, Planning staff recommend that consent file B9-2020P **be approved** subject to the following conditions:

THAT the applicant

- Merge Part 2 with 1419 Station Street (Parts 3 – 4).

- Ensure municipal taxes owing on 1431 Stations Street be paid in full to the Town, to the satisfaction of the Treasurer.
- Confirm that no existing utilities currently cross the proposed lot lines. Should any existing services cross the proposed boundaries, then the applicant shall be responsible for relocation / removal costs.
- Provide a written acknowledgment that the Owner will be responsible for payment of the front-ending contribution, payable to the Town of Pelham, for the East Fonthill storm water management system oversizing.
- 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: October 23, 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 B9/2020P
1431 Station Street

We have completed the review of the consent application B9/2020P for consent to partial discharge mortgage and to convey 2850.3 square meters of land (Part 2), to be added to the abutting property to the south (Part 3 and 4) for future development. Part 1 is to be retained for continued residential use of the dwelling known municipally as 1431 Station Street.

Upon this review, Public Works has the following conditions;

1. That the applicant confirm that no existing utilities currently cross the proposed new property line. Should any services cross this new property line, the applicant will be responsible for costs associated with their relocation and/or removal.
2. That the applicant provides written acknowledgement that the owner will be responsible for payment of the front-ending contribution, payable to the Town of Pelham, for the East Fonthill storm water management system oversizing.

To: Holly Willford

Cc: Curtis Thompson, Sarah Leach

From: Dave Christensen, Building Intake/Zoning Technician
Community Planning & Development

Date: October 26th, 2020

Subject: Building Comments on Applications to the Committee of Adjustment for
Consents/Minor Variances – November 3rd, 2020 Hearing

Comment for Re: File # A27/2020P 571 Roland Rd.

The building department offers the following comment,

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

Comment for Re: File # B9/2020P - 1431 Station St. & B10/2020P - 1012 Cream St..

The building department offers the following comment,

- No comment

Kind Regards,

David Christensen, BSc (Hons), Adv. Dip.
Building Intake & Zoning Technician
dchristensen@pelham.ca



To: Nancy Bozzato, Holly Willford

Cc: Curtis Thompson, Sarah Leach

From: Victoria Emslie, Taxation Clerk
Corporate Services

Date: October 8th, 2020

Subject: Corporate Service Comments on Application to the Committee of Adjustment
for Consents/Minor Variances. **File B9/2020P- 1431 Station St**

Comment:

That all municipal taxes owing to the Town of Pelham on the subject lands, as detailed in correspondence from the Treasurer and Tax Collector, dated October 7th, 2020 be paid in full to the town, to the satisfaction of the Treasurer.

Victoria Emslie
Taxation Clerk
Corporate Services



October 21, 2020

Our File No: PLCON202001077

BY E-MAIL ONLY

Town of Pelham
Planning Department/Committee of Adjustment
20 Pelham Town Square,
P.O. Box 400,
Fonthill ON
L0S 1C0

Attention: Nancy Bozzato, Secretary Treasurer of the Committee of Adjustment

Subject: Application for Consent, (B9/2020P)
1431 STATION ST
ARN 273203000402100

NPCA staff have reviewed the above noted application and offer the following comments.

Application B9/2020P is made for consent to convey 2,850.3 metres of land (Part 2) to be added to the abutting property to the south (Parts 3 and 4) for future development. Part 1 is to be retained for continued residential use of the dwelling known municipally as 1431 Station Street.

The Niagara Peninsula Conservation Authority staff have reviewed the regulated mapping for the subject property and note the property is impacted by an NPCA regulated watercourse.

NPCA Policy

NPCA Policies, Procedures and Guidelines for the Administration of Ontario Regulation 155/06 and Land Use Planning Policy Document.

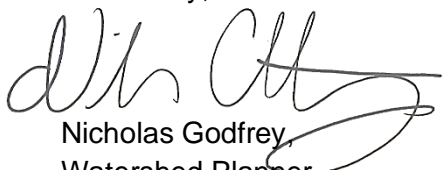
The NPCA regulates watercourses, flood plains (up to the 100 year flood level), Great Lakes shorelines, hazardous land, valleylands, and wetlands under *Ontario Regulation 155/06 of the Conservation Authorities Act*. The NPCA's *Policies for the Administration of Ontario Regulation 155/06 and The Planning Act*. (NPCA policies) provides direction for managing NPCA regulated features.

The subject properties identified in the application as Parts 3 and 4 are impacted by a regulated watercourse with a 15-metre buffer, and Part 2 contains part of the regulated watercourse's 15 metre buffer. As such, the NPCA does not object to the proposed lot line adjustment, but would require review and approval of any proposed development adjacent to the regulated watercourse to ensure there are no negative impacts to this regulated feature.

Conclusion

The NPCA has no objections to the proposed consent application **B9/2020P**, but will require circulation of all upcoming site developments, and may require review and approval prior to the commencement of proposed works.

Yours truly,

A handwritten signature in black ink, appearing to read 'Nick Godfrey', with a large, stylized flourish extending from the end of the signature.

Nicholas Godfrey,
Watershed Planner
(905) 788-3135, ext. 278

November 3, 2020

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

Re: Consent Application B10-2020P
1012 Cream Street, Pelham
Concession 10, Part of Lot 12
Roll No. 2732 010 014 18300

The subject parcel, shown as Part 2 on the attached sketch, has 126.24 m of frontage on the southwest corner of Cream Street and Welland Road, legally described above, in the Town of Pelham.

Application is made for consent to partial mortgage discharge and to convey 2.75 hectares of land (Part 2) to merge with the abutting property to the west (Part 3 – 626 Welland Road) for continued residential use. 3.534 hectares of land (Part 1) will be retained for continued use of the agricultural building. At this time, no future use has been proposed on Part 2.

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;
- b) Whether the proposed subdivision is premature or in the public interest;
- c) Whether the plan conforms to the Official Plan and adjacent plans of subdivisions, if any
- d) The suitability of the land for such purposes;
- f) The dimensions and shapes of the proposed lots;
- h) Conservation of natural resources and flood control;
- i) The adequacy of utilities and municipal services;
- j) The adequacy of school sites

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 separate the existing lot along the *urban settlement area* boundary, and split Official Plan designations and zoning boundary. The approval of the proposed consent does not directly facilitate *intensification* or *development* by definition which is sometimes the case depending on the zone regulations. However, because the *Agriculturally* zoned parcel is wholly being left intact, no additional residential dwellings would be permitted beyond the one single detached residence that can already currently be built.

Provincial Policy Statement (PPS) (2020)

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 Provincial Policy Statement (PPS) designates the subject land within the ‘Prime Agricultural Area’ to the south and within a ‘settlement area’ to the north. ‘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 1.1.4.1 states that healthy, viable *rural areas* should be supported by, among other things, promoting regeneration, promoting diversification of the economic base in *prime agricultural areas*, in accordance with policy 2.3 and conserving biodiversity.

The proposed boundary adjustment will separate the southern agricultural lands from the northern urban lands. This will allow someone who is only interested in developing the urban lands to do so without the burden associated with the balance of the rural lands to the south, and vice-versa.

Greenbelt Plan (2017)

The northern half of the property (Parts 2 – 3) are located within the Village of Fenwick *settlement area* which the *Greenbelt Plan* designates as a ‘Town / Village’. However, the southern half of the property (Part 1) is designated ‘Tender Fruit & Grape Lands’ within the Greenbelt Plan’s *Protected Countryside*.

Similar to the PPS policies, the *Specialty Crop Area* designation is intended to be protected for long-term agricultural use. Lands within the *Towns and Villages* designation are governed by the Growth Plan policies.

Policy 4.6.1 e) states that lot creation is discouraged but minor lot adjustments or boundary additions may be permitted, provided they do not create a separate lot for a residential dwelling in *prime agricultural areas*, including *specialty crop areas*, and there is no increased fragmentation of a *key natural heritage feature* or *key hydrologic feature*.

The proposed boundary adjustment will not create any new lots. The mapped *significant woodland* designation is already fragmented by the existing subject land and the mapped *critical fish habitat* has been determined not to be subject to increased fragmentation with the modified lot line according to the environmental consultant retained by the applicant and supported by Regional staff.

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 southern half (Part 1) is located within a 'Prime Agricultural Area' while the northern half (Parts 2 – 3) are identified as being within a '*settlement area*' according to the Growth Plan. More specifically, Part 2 is a *designated greenfield area* while Part 3 is identified as being within a *delineated built-up area* due to the presence of existing development.

Policy 4.2.2.3 a) states that (among other things), within the *Natural Heritage System* new development or site alteration will demonstrate that there are no negative impacts on key natural heritage features, key hydrologic features or their functions.

Development is defined as the creation of a new lot, a change in land use, or the construction of buildings requiring approval under the *Planning Act*. The proposed conveyance facilitates a boundary adjustment and would not be considered *development*. But also, the reconfigured lot line ensures no increased fragmentation of any *key natural heritage features*.

Regional Official Plan (Consolidated August 2014)

The Regional Official Plan designates Part 1 as 'Unique Agricultural Area' while Part 2 is identified as a 'Designated Greenfield Area' and Part 3 is identified as a 'Built-up Area', the latter two parts both being situated within the 'urban area boundary'. The subject land also shares the following environmental designations on at least part of the subject property: *Environmental Conservation Area (ECA)* and *Fish Habitat*.

Regional staff are satisfied the proposed boundary adjustment conforms with Provincial policies, avoids fragmentation of *key natural heritage features* and meets Regional lot creation criteria.

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 northern half (Parts 2 – 3) as 'Urban Living Area / Built Boundary', with Part 2 also containing a 'Greenfield Overlay' and subject to special policy B1.1.10 to the north. The southern half (Part 1) is designated 'Specialty Agricultural' and 'Environmental Protection Two' (EP2).

Policy B2.2.5 restricts lot creation to maintain and protect agricultural resources of the Town. However, subsection b) allows for the consideration of applications that facilitate a lot addition, boundary adjustment, mortgage discharge provided such application is minor in nature and will not create a separate lot for a residential dwelling and will not fragment any *key natural heritage* and *key hydrologic features*.

The proposed severance does not create any new lots within the *Specialty Agricultural* designation because Part 1 would remain entirely intact, thereby not inducing any additional residential dwellings or non-agricultural development which is the intent of this policy.

Any future development on Parts 2 – 3 continue to be subject to special policy B1.1.10 which is the requirement for the East Fenwick Secondary Plan policy measures to be in effect prior to approving any new residential lots. Any propose development will continue to be bound by the same requirements in effect only now the zoning setbacks will be more stringent on Part 1 than what previously existed, as is evidenced by the requirement to obtain zoning relief for the new side yard setback of the barn on Part 1.

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;
 - ✓ Unchanged.
- b) Will not cause a traffic hazard;
 - ✓ Unchanged.
- 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;
 - ✓ No issues according to Regional comments.
- e) Will not have a negative impact on the drainage patterns in the area;
 - ✓ Confirmation requested 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;
 - ✓ Each land designation and zone are proposed to remain intact on their respective parcels.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
 - ✓ No issue according to Technical Memorandum prepared by environmental consultant, Regional, and NPCA staff.
- h) Conforms with Regional lot creation policy as articulated in the Regional Official Plan.
 - ✓ No objection from Region.
- i) Complies with the appropriate Provincial Minimum Distance Separation Formulae, where applicable.
 - ✓ Consideration at building permit. Due to existing zoning permissions, the proposed lot creation will not directly induce any additional residences or livestock uses beyond what is currently permitted.

The proposed severance would separate the southern *prime agricultural* designated lands from the northern urban lands. This will allow someone whom is only interested in developing each respective parcel to do so without the burden associated with the balance of the agricultural (or urban) lands, as the case may be.

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

The subject land is currently zoned 'Residential Village 1' (RV1) to the north (Parts 2 – 3) and 'Agricultural' (A) the south (Part 1) according to the Zoning By-law.

Parts 2 – 3 will continue to comply with the RV1 zone requirements after parcel reconfiguration however Part 1 will not comply with section 7.2 ('A' zone) requirements for minimum lot frontage, minimum lot area, and likely minimum side yard setback to the existing barn. Therefore, zoning relief will be required as a condition of approval.

Any future development on any of the subject lands will continue to need to comply with their respect zoning regulations and permitted uses.

Agency & Public Comments

On October 8, 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:

- Niagara Peninsula Conservation Authority (October 22, 2020)
 - No objections.
- Niagara Region Planning & Development Services (October 28, 2020)
 - Future development and site alterations requiring *Planning Act* applications will require the completion of an *Archaeological Assessment* and *Environmental Impact Study (EIS)*.
 - No objection.
- Building Department (October 26, 2020)
 - No comments.
- Public Works Department (October 26, 2020)
 - See conditions.
- Hydro One (October 8, 2020)
 - No comments.

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

Planning Staff Comments

The subject application deals with the conveyance of 2.78 hectares to merge with the abutting lands to the west (Part 3) as a boundary adjustment that reflects the split Official Plan designations, split zoning and boundary between the *urban settlement area* and *prime agricultural area*. For general information, the Committee should note that usually, but not always, are Official Plan land use designations and zone categories derived from existing boundaries and land features such as parcel fabric lines. In this case, the urban boundary rather arbitrarily dissected dozens of properties along the south side of Welland Road in Fenwick.

A pre-consult meeting was held with the applicant(s) of the property and staff from the Town and Niagara Region Planning & Development Services on December 5, 2019 to discuss the subject applications.

The subject lands are located on the southwest corner of Cream Street and Welland Road and are surrounded by agricultural uses and rural residential dwellings.

Planning staff visited the site and reviewed aerial photography to better understand the local context. Planning staff have also reviewed the *Planning Justification Brief* prepared by Upper Canada Consultants, and the *Technical Memorandum* prepared by LCA Environmental Consultants submitted with the application.

Planning staff is of the opinion that the proposal applies current planning and development goals regarding the

enablement of appropriate economic development on lands suitable to do so by disposing of land that contains very different policy and land use permissions. Furthermore, the proposed consent avoids harm to any key natural heritage features by ensuring those ecologically sensitive features remain wholly intact by avoiding further lot fragmentation. The proposed boundary adjustment does not induce any more non-agricultural development such as residential dwellings, than what previously exists within the agriculturally designated and zoned lands (Part 1).

In Planning staff's opinion, the application is consistent with the PPS and conforms to Provincial, Regional, and local plans. It is noted that any future residential redevelopment on Parts 2 – 3 will require additional *Planning Act* development applications and approvals.

Given this analysis, Planning staff recommend that consent file B10-2020P **be approved** subject to the following conditions:

THAT the applicant

- Ensure Part 2 merges in title with Part 3.
- Obtain zoning approval on Part 1 for:
 - Section 7.2 (a) 'Minimum Lot Frontage'
 - Section 7.2 (b) 'Minimum Lot Area'; and
 - Section 7.2 (e) 'Minimum Side Yard' to the satisfaction of the Director of Community Planning & Development.
- Submit a comprehensive overall Lot Grading & Drainage Plan for both Parts demonstrating that drainage neither relies upon, nor negatively impacts adjacent properties, and that all drainage will be contained within their respective lots, to the satisfaction of the Director of Public Works, or designate.
- Confirm that no existing utilities cross the proposed lot line. In the event that services do cross, the applicant shall be responsible for the costs and responsibility of their relocation and/or removal.
- Ensure the Secretary-Treasurer is provided with sufficient evidence indicating that the conveyance of a minimum 0.1 m² parcel of land from Part 3 on the Consent Sketch be deeded to the Town of Pelham. This transfer shall be completed to the satisfaction of the Director of Public Works, in order to facilitate the boundary adjustment proposed in this application, said lands shall be conveyed free and clear of any mortgages, liens or encumbrances. All costs associated with this conveyance are the responsibility of the applicant. 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: October 26, 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 B10/2020P
1012 Cream Street

We have completed the review of the consent application B10/2020P for consent to partial discharge mortgage and to convey 2780 square meters of land (Part 2), to be added to the abutting property to the west (Part 3) for future development. Part 1 is to be retained for continued residential use of the dwelling known municipally as 1012 Cream Street.

Upon this review, Public Works has the following conditions;

1. That the applicant confirm that no existing utilities currently cross the proposed new property line. Should any services cross this new property line, the applicant will be responsible for costs associated with their relocation and/or removal.
2. 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.
3. That the Secretary-Treasurer be provided with sufficient evidence indicating that the conveyance of a minimum one (1) square foot parcel of land from the lot abutting the subject parcel to the west, being the lands shown as Part 3 on the preliminary sketch appended to and forming part of this Decision, to the Town of Pelham has been completed to the satisfaction of the Directors of Planning and Public Works, such conveyance being required in order to facilitate the boundary adjustment proposed in this application, and that said lands be conveyed free and clear of any mortgages, liens or encumbrances. All costs associated with this conveyance are the responsibility of the applicant.

To: Holly Willford

Cc: Curtis Thompson, Sarah Leach

From: Dave Christensen, Building Intake/Zoning Technician
Community Planning & Development

Date: October 26th, 2020

Subject: Building Comments on Applications to the Committee of Adjustment for
Consents/Minor Variances – November 3rd, 2020 Hearing

Comment for Re: File # A27/2020P 571 Roland Rd.

The building department offers the following comment,

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

Comment for Re: File # B9/2020P - 1431 Station St. & B10/2020P - 1012 Cream St..

The building department offers the following comment,

- No comment

Kind Regards,

David Christensen, BSc (Hons), Adv. Dip.
Building Intake & Zoning Technician
dchristensen@pelham.ca

Planning and Development Services

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7
905-980-6000 Toll-free: 1-800-263-7215

Via Email Only

October 28, 2020

File No.: D.06.06.CS-20-0047

Ms. Nancy Bozzato, Dipl.M.M., AMCT
Town Clerk/Secretary-Treasurer
Town of Pelham
20 Pelham Town Square, PO Box 400
Fonthill, ON L0S 1E0

Dear Ms. Bozzato:

**Re: Revised Provincial and Regional Comments
Consent Application
Town File Nos.: B10/2020P
Owner: Scott Hinan
Agent: Upper Canada Consultants (William Heikoop)
Address: 1012 Cream Street, Pelham
Legal Description: Part of Lot 12, Concession 2, Town of Pelham**

Regional Planning and Development Services staff has reviewed the above-noted consent application, which proposes to convey 2.78 hectares of land (Part 2) to be added to the abutting property to the west (Part 3) for future development. The notice states that Part 1 is to be retained for continued residential use, however residential uses are not currently located on the property, and instead the property contains a barn structure and solar panels.

A preconsultation meeting was held on December 5, 2019, at Town Hall, with staff from the Town, Region and Niagara Peninsula Conservation Authority (NPCA), as well as the Agent and Owner in attendance. Additional correspondence between the Region, Town and Agent occurred in September 2020 regarding the proposed lot boundary adjustment and its proximity to the Regional Core Natural Heritage System (CNHS).

Previous comments (dated October 22, 2020) were submitted by Regional staff, noting that Regional staff were not in support of the proposed lot boundary adjustment due to concerns regarding fragmentation of the Type 2 (Important) Fish Habitat on the subject lands. Regional staff have since been provided with a Technical Memorandum prepared by LCA Environmental Consultants (dated September 17, 2020) from the applicant which, as is discussed further below, addresses this concern.

The following revised Provincial and Regional Comments are provided to assist the Committee in their consideration of the application.

Provincial and Regional Policy

The Provincial Policy Statement (PPS) identifies Parts 2 and 3 as being within a Settlement Area. The policies of the PPS direct growth and development to Settlement Areas to encourage the efficient use of land, resources and infrastructure that is planned or available. The remainder of the subject lands (Part 1) are identified as a Prime Agricultural Area, and more specifically as a Specialty Crop Area, under the PPS. The PPS directs that lands within Prime Agricultural Areas are to be protected for long-term agricultural use, with Specialty Crop Areas being given the highest priority for protection.

The subject lands are within the Protected Countryside of the Greenbelt Plan. Parts 2 and 3 are identified as being within the Towns and Villages designation of the Greenbelt Plan, while Part 1 is identified as being within the Specialty Crop Area – Niagara Peninsula Tender Fruit and Grape Area designation. Similar to the policies of the PPS, within the Specialty Crop Area designation, lands are to be protected for long-term agricultural use. Lands within the Towns and Villages designation of the Greenbelt Plan are governed by the policies of the Growth Plan for the Greater Golden Horseshoe (Growth Plan). The Growth Plan identifies Part 2 as being within a Designated Greenfield Area, while Part 3 is identified as being within the Delineated Built-Up Area. The Growth Plan specifies that growth and development should be directed to both Delineated Built-Up and Designated Greenfield Areas, in order to achieve the creation of complete communities which prioritize the utilization of planned and/or available infrastructure and public service facilities.

The Regional Official Plan (ROP) identifies Part 1 as being outside the Urban Area Boundary for the Town of Pelham, and designates Part 1 as Unique Agricultural Area. Similar to the policies of the PPS and the Greenbelt Plan, the ROP emphasizes the protection of lands in the Unique Agricultural Area for long-term agricultural use. Both Provincial and Regional policies restrict lot creation in agricultural areas. Lot boundary adjustments are permitted, subject to specific criteria. The PPS permits lot boundary adjustments for legal or technical reasons which do not result in the creation of a new lot. The Greenbelt Plan and ROP permit minor lot adjustments or boundary additions provided these do not create a separate lot for a residential dwelling, and there is no increased fragmentation of a key natural heritage feature or key hydrologic feature.

Conversely, the ROP identifies Parts 2 and 3 as being within the Urban Area Boundary for the Town of Pelham, designating Part 2 as Greenfield Area and Part 3 as Built-Up Area, in alignment with the policies of the Growth Plan. The ROP permits a full range of residential, commercial and industrial uses generally within the Urban Area, subject to the availability of adequate municipal services and infrastructure. Similar to the policies of the PPS and the Growth Plan, the ROP encourages new development to be located

within the Urban Area in order to optimize the use of existing or planned urban serviced land.

In Designated Greenfield Areas, both the Growth Plan and the ROP require new development to be comprehensively planned to achieve the creation of complete communities with a diverse range of housing types and land uses, and to meet a minimum density target of 50 residents and jobs combined per hectare. The Town of Pelham is currently completing the East Fenwick Secondary Plan, which will establish detailed policies for the comprehensive development of the area in accordance with these Provincial and Regional policies. Consideration of these policies will therefore occur as part of any future Planning Act applications on the subject lands.

Regional staff note that the proposed lot line follows the Urban Area Boundary and will not result in the creation of a new lot in the agricultural area. The proposal therefore conforms to Provincial and Regional policies for lot creation in agricultural areas. As the proposed consent application will facilitate future development of the urban portion of the subject lands (Parts 2 and 3), it can also be considered to be in conformity with Provincial and Regional growth management policies for lands within the Urban Area.

Core Natural Heritage

The subject lands contain portions of the Region's Core Natural Heritage System (CNHS), as mapped in the ROP. Specifically, the CNHS mapping on the property consists of Significant Woodland and an Important (Type 2) Fish Habitat.

Regional staff have reviewed the Technical Memorandum prepared by LCA Environmental Consultants (dated September 17, 2020) and agree that, following field investigation, Fish Habitat is not present on Part 2. As such, the boundary adjustment, as proposed, will not further fragment CNHS features, and Regional staff have no concerns with the proposed boundary adjustment.

Although Regional staff have no objection to the proposed boundary adjustment as outlined above, staff note that future development and site alteration requiring Planning Act approval on the subject lands will be subject to the completion of an Environmental Impact Study (EIS), and the Significant Woodland feature may limit the development potential of the subject lands. As such, although not a requirement for this application, Regional staff recommend that an EIS is completed prior to the boundary adjustment in order to fully evaluate the development potential of the subject lands.

Please note that the Niagara Peninsula Conservation Authority (NPCA) continues to be responsible for the review and comment on planning applications related to their regulated features. As such, the NPCA should continue to be consulted with respect to their comments and permit requirements pursuant to Ontario Regulation 155/06.

Archeological Resources

The PPS and ROP provide direction for the conservation of significant cultural heritage and archaeological resources. Specifically, Section 2.6.2 of the PPS and Policy 10.C.2.1.13 of the ROP state that development and site alteration are not permitted on lands containing archaeological resources or areas of archaeological potential, unless significant archaeological resources have been conserved. The subject lands exhibit high potential for discovery of archeological resources given their close proximity to two watercourses, one of which runs along the eastern boundary line of Part 1. However, a boundary adjustment is not considered “development” under the PPS or the ROP and no site alteration is proposed as part of the current application; therefore an archeological assessment is not required at this time. Please note that future development and site alteration requiring Planning Act approval on the subject lands will require the completion of an archaeological assessment.

Private Septic System

Regional private septic system inspection staff have reviewed the information submitted with the application. The consent application is proposing to sever Part 2 (2.780 hectares) and merge it with Part 3 for future residential use. Part 3 currently contains a residential dwelling. The additional land would provide usable area for a replacement sewage system (Class 4) in the future.

Part 1 (3.354 hectares) is to be retained for continued residential use. This portion of the subject lands currently contains an accessory building. There is no sewage system located on this portion of the subject lands as the accessory building does not contain plumbing fixtures. The proposed parcel contains enough usable land for the installation of a sewage system in the future.

Therefore, Regional private septic system inspection staff have no objection to the consent application as submitted.

Conclusion

In conclusion, Regional staff have no objection to this consent application from a Provincial or Regional perspective, subject to the satisfaction of any local requirements, and conditional on Part 2 merging in title with Part 3. Although not a requirement, Regional staff recommend that an EIS be completed prior to the boundary adjustment to confirm the development potential of the subject lands.

Please send a copy of the staff report and notice of the Committee’s decision on this application.

If you have any questions related to the above comments, please contact me at Amy.Shanks@niagararegion.ca, or Britney Fricke, MCIP, RPP, Senior Development Planner at Britney.Fricke@niagararegion.ca.

October 28, 2020

Kind regards,

A handwritten signature in black ink, appearing to read "Amy Shanks". The signature is fluid and cursive, with the first name "Amy" clearly legible and the last name "Shanks" written in a more stylized, connected script.

Amy Shanks
Development Planner

cc: Britney Fricke, Senior Development Planner, Niagara Region
Lori Karlewicz, Planning Ecologist, Niagara Region
Caitlin Goodale, Private Sewage System Inspector, Niagara Region
Curtis Thompson, Planner, Town of Pelham

October 22, 2020

Our File No.: PLCON202001078

BY E-MAIL ONLY

Town of Pelham
Planning Department/Committee of Adjustment
20 Pelham Town Square,
P.O. Box 400,
Fonthill ON
L0S 1C0

Attention: Nancy Bozzato, Secretary Treasurer of the Committee of Adjustment

Subject: Application for Consent, (B10/2020P)

1012 CREAM ST
ARN: 273201001418300

NPCA staff have reviewed the above noted application and offer the following comments.

Application **B10/2020P** is made for consent to partial discharge of mortgage and consent to convey 2.780 hectares of land (Part 2), to be added to the abutting property to the west (Part 3), for future development. Part 1 is to be retained.

The Niagara Peninsula Conservation Authority staff have reviewed the regulated mapping for the subject property and note that property is impacted by an NPCA Regulated watercourse.

NPCA Policy

NPCA Policies, Procedures and Guidelines for the Administration of Ontario Regulation 155/06 and Land Use Planning Policy Document.

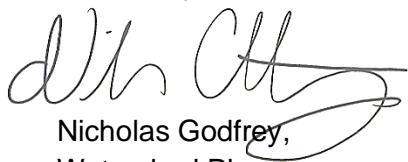
The NPCA regulates watercourses, flood plains (up to the 100 year flood level), Great Lakes shorelines, hazardous land, valleylands, and wetlands under *Ontario Regulation 155/06 of the Conservation Authorities Act*. The NPCA's *Policies for the Administration of Ontario Regulation 155/06 and The Planning Act*. (NPCA policies) provides direction for managing NPCA regulated features.

The subject property contains a watercourse identified as a headwater feature within the Coyle Creek system. While the NPCA discourages fragmentation of features, the proposed lot line will not have a negative impact as the subject regulated watercourse provides limited ecological function. NPCA staff are satisfied the proposed lot addition satisfies NPCA policy.

Conclusion

The NPCA has no objections at this time to the proposed Consent Application **B10/2020P**. Any proposed developments within 15 metres of the regulated watercourse will require review and approval from our office.

Yours truly,

A handwritten signature in black ink, appearing to read 'Nick Godfrey', with a large, stylized flourish extending from the end of the signature.

Nicholas Godfrey,
Watershed Planner
(905) 788-3135, ext. 278

Committee of Adjustment**Minutes**

Meeting #: Special CofA 2/2020
Date: Tuesday, February 25, 2020
Time: 5:30 pm
Location: Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

Members Present Donald Cook
Bill Sheldon
Bernie Law

Members Absent John Klassen
Sandra Marsh

Staff Present Nancy Bozzato
Holly Willford

Others Present Barb Wiens
Curtis Thompson
Derek Young

1. Attendance

Applicant, agent and Interested members of the public.

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 5:30 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.

The Chair requested the agenda be amended to hear application B11/2019P prior to minor variance files A28/2019P and A29/2019P. The Committee Members agreed to amend the agenda.

Moved By Bill Sheldon

Seconded By Bernie Law

THAT the Agenda be amended to hear consent application B11/2019P prior to hearing minor variance applications A28/2019P and A29/2019P.

Carried

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 Consent

5.1 B11/2019P - 20 Alan Crescent

Purpose of Application

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

Representation

The Applicant's authorized agents were present.

Correspondence Received

1. Town of Pelham Planning Department, January 14, 2020 Meeting
2. Town of Pelham Planning Department, Addendum to Recommendation Report
3. Town of Pelham Public Works
4. Town of Pelham Building Department
5. Bell Canada
6. Deborah and Keith Powell - February Comments
7. Ted and Angeline Galotta - February Comments
8. Jim Marando - February Comments
9. Tony and Yolanda Bostock - February Comments

10. Jan Chambor - - February Comments

11. Upper Canada Consultants Presentation - Please refer to file
B11/2019P - 20 Alan Crescent from January 14, 2020 Meeting

** For Copies of All Previous Public Comments Please See January 14,
2020 Agenda**

Applicant's Comments

The Chair asked the applicant's authorized agent, Mr. Craig Rohe of Upper Canada Consultants, if he wished to speak on the application. In response, Mr. Rohe indicated he agrees with the additional information provided by the Town of Pelham Planning staff and agrees with the proposed conditions. Mr. Rohe indicated the applicant's lawyer, Mr. Patrick Maloney, from Sullivan Mahoney, is present and wishes to speak on the matter. Mr. Maloney stated he would like to address all three applications at once. Mr. Maloney indicated that the Committee must make a decision based on the planning merits of the applications and that only expert evidence should be heard. Mr. Maloney stated the expert evidence heard by the Committee is that of Mr. Rohe and the Town's planning staff, Ms. Wiens and Mr. Thompson. He stated he understands the concerns of the residents; however, the application is consistent with planning policy. Mr. Maloney also indicated the applicant could have applied for a higher density application however choose to apply for a single detached dwelling. Mr. Maloney asked that the Committee approve the applications. He further indicated, if the Committee feels the applicant should seek a rezoning then he asked the Committee to approve the consent and the applicant would seek a rezoning.

Public Comments

The Chair opened the floor to the public and asked that only new matters and information be discussed.

Jim Marando stated everything he is hearing is aimed at policy. Mr. Marando discussed the Town of Pelham's Zoning By-Law and indicated by-laws are to protect the residents. He stated he believes the zoning by-law must not be compromised and that these applications are a direct violation of the Zoning By-law. He indicated he thinks the matter should be before elected officials and that someone should look at limiting intensification. Mr. Marando said there is good intensification and bad

intensification and urged the Committee to not render a decision and rather have the applicant request a zoning amendment.

Ted Galotta voiced concerns regarding storm water management issues within the neighbourhood. Mr. Galotta indicated he believed the application not to be minor in nature and stated this property / neighbourhood should not be compared to new subdivision developments. He stated he did not believe the application is desirable or has underutilized space; indicating that space is a backyard. Mr. Galotta stated an application may be refused if the application is considered to not be minor as it is too large or too important. Mr. Galotta further advised he has reviewed other municipalities' Official Plans and contacted the Ministry and discussed this application and the Town's intensification requirements. He further stated the neighbours would be duly affected if this application is granted. He voiced privacy concerns as well. Lastly, Mr. Galotta discussed the planning department's recommendation report for this application and compared to another application with regards to the criteria analyzed and invited planning staff to reconsider their recommendation.

The Chair indicated the Committee has the complete package submitted by Mr. Galotta. The Chair invited staff to respond. In response, Derek Young, Supervisor of Engineering discussed the Town's stormwater infrastructure and explained the improvements to be made to the system in the future. Barb Wiens, Director of Community Planning and Development indicated a number of points made by Mr. Galotta are addressed within the planning department's recommendation report. Ms. Wiens did further discuss the Town's requirement for intensification and associated policies.

Foster Zanutto indicated he has several concerns regarding this application and proposed development including: zoning by-law issues, establishing a precedent, removal of trees, drainage issues, aging infrastructure, demolishing a good home, change of character of the neighbourhood, etc. Mr. Zanutto indicated he has written a letter to the editor in the local paper and received several comments from people outside the subject neighbourhood in support of him. Mr. Zanutto questioned what the application is really about and if this is about the tax base. He asked the Committee to support him and the public.

Robert Jansen indicated he understands zoning is not by fixed physical boundaries and stated you will not find properties not in compliance with

the zoning by-law. In response, Curtis Thompson, Town Planner indicated the zoning-law does zone properties by physical zoning boundaries. In addition, the Chair and Ms. Wiens explained there are properties within the Town, which do not comply with the zoning, which is the purpose for the minor variance application. In addition, Mr. Jansen indicated he did not believe the planning report made fair assessments. In response, Ms. Wiens indicated the assessment is outlined in the report for the Committee's perusal.

Mr. Jansen also indicated he has concerns regarding his pool and the requirement of intensification. In response, Mr. Jansen was advised his concerns with his pool would be taken care of at building permit stage, if the proposal is approved. The Chair explained the Town's Official Plan and intensification areas outline within the said plan. Ms. Wiens further spoke on the requirement for intensification and related policies.

Mr. Jansen stated he was concerned that there is no guarantee the applicant would not build a two-story home instead of a bungalow if approved. He again referenced privacy concerns. In response, Mr. Rohe, agent for the applicant, indicated it is his applicant's intention to build a one-story home. Mr. Rohe further indicated any elevation plans would be approved by the Town. Furthermore, Ms. Wiens indicated the Town would approve the elevation plans prior to building permit and would review the plans with privacy in mind.

Members Comments

A Member asked the Secretary-Treasurer of the Committee of Adjustment, Nancy Bozzato, if he may ask the applicant's solicitor for legal advice as the lawyer has provided unsolicited legal advice at the meeting. In response, Ms. Bozzato indicated the solicitor present is the applicant's lawyer and he provided advice solicited by his client. She stressed the solicitor is present on behalf of his client and not the Town. Mr. Maloney, the applicant's solicitor, asked for clarification on the legal advice sought. He further indicated he has given his client legal advice, which is confidential and privileged, and stated he is not the Town's solicitor and does not act on behalf of the Town. In response, the Member asked if it is the solicitor's opinion that the Committee could grant the consent application conditional on a rezoning. Mr. Maloney indicated that is his opinion, and he has seen it before. In response, Mr. Sheldon made a motion to approve the consent conditional upon the rezoning of the subject land. The motion did not receive a seconder.

A Member discussed the definition of intensification being vacant and underutilized lots within previous developed areas. The member stated it is his opinion the subject lot is not vacant and/or underutilized. The member stated he agrees with a previous comment made that this application is building a house in a backyard. Furthermore, the Member stated he is of the opinion if this definition is used these types of neighborhoods would be in trouble throughout the Town. The Member indicated he has concerns with infill and cumulative negative effects, such as storm water. The Member further discussed the Town's Official Plan Policy A2.2.3 – Urban Character. He stated he was concerned with this policy and respecting the character and the stability of the neighbourhood. The Member also stated he is concerned there is no Secondary Plan in the area and the ability to integrate developments into the established area. Furthermore, the Member stated he is concerned about the social fabric of the neighbourhood and the disruption this proposal would have.

The Member stated the planning report indicated the minor variance are minor in nature as there are no adverse impacts, however the member stated he disagrees from a social community fabric, stability and a character point of view. He stated the desirability or use of the land disagrees with the planning report. The Member indicated with regard to the minor variances maintaining the intent of the zoning by-law and indicated he believes the average frontage in the neighbourhood would be 100 feet or more. The Member stated this application does not maintain the general intent of the zoning by-law in his opinion. The Member stated there are pages of reasons to not approve the minor variance applications. The Member indicated in his opinion this application is better suited as a subject of rezoning that involves the political decision makers of the Town. The Member then recapped his opinion by indicating he believes the minor variance requests are not minor in nature, do not meet the general intent and purpose of the zoning by-law, is not desirable for the lands and there are many real and potential impacts to the social fabric of the community, including the stability and character of the community. The Member stated based on his comments would like to turn down the applications.

A Member indicated he has made two site visits to the property and is concerned with rainwater, snow and leaves. The Member said his interpretation of the minor variances are that they are not minor but major. The Member indicated he would not support the applications.

A Member indicated in his opinion the planning department's report is like a checklist. He stated the Committee must consider section 51(24) of the Planning Act. He stated he disagrees with the planning report with regards to section 51(24)(c) and referenced the Town's Official Plan Policy A2.3 Urban Character. The Member indicated the application does not satisfy the goal of the official plan with regard to the character and stability of the neighbourhood and the scale and density of the neighbourhood. The Member stated he further disagrees with the planning report regarding Section 51(24)(d) as legalizing the proposed lot requires several minor variances (or zoning amendments) which individually may be considered minor, however holistically are major and together completely alter the current requirements under the R-1 Zone of the current Zoning By-Law. Moreover, the Member stated he disagrees with Section 51(24) (f) as the dimensions of the proposed severance do not keep with the existing and well-established residential neighbourhood. Finally, the Member stated he disagreed with Section 51(24) (g) as the proposed new and remnant lots require several minor variances (zoning amendments) such that the impact on the existing neighbourhood is not warranted and should not be allowed.

The Chair asked the applicant's authorized agent if he wished to speak further on the application prior to a decision being rendered. Mr. Rohe indicated he had no further comments. Mr. Maloney indicated he also had no further comments. The Chair asked the Town staff if they wished to provide further comment. Ms. Wiens indicated she has no further comments. The Chair asked the public if anyone wished to speak. In response, Mr. Zanutto asked various questions regarding the potential appeal process. In response, Ms. Bozzato provided information regarding LPAT and the appeal process.

Moved By Bernie Law

Seconded By Bill Sheldon

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

This decision is based on the following reasons:

It is the opinion of the Committee of Adjustment that:

1. The application does not conform to the policies of the Town of Pelham Official Plan, Regional Policy Plan and Provincial Policy Statement, and fails to comply with the Town's Zoning By-law, more specifically with respect to:
 1. Official Plan A2.3 Urban Character as the application does not satisfy the goal of the official plan with regard to the character and stability of the neighbourhood and the scale and density of the neighbourhood.
2. This Decision is rendered having regard to the provisions of Sections 51(24) and 51(25) of the Planning Act, R.S.O., as amended, and the Committee finds that the application does not satisfy the following Sections of the Planning Act:
 1. Section 51(24) (c) as the proposal does not conform to Section A2.3 Urban Character of the Town's Official Plan;
 2. Section 51(24) (d) as legalizing the proposed lot requires several minor variances (or zoning amendments) which individually may be considered minor, however holistically are major and together completely alter the current requirements under the R-1 Zone of the current Zoning By-Law;
 3. Section 51(24) (f) as the dimensions of the proposed severance do not keep with the existing and well-established residential neighbourhood; and
 4. Section 51 (24) (g) as the proposed new and remnant lots require several minor variances (zoning amendments) such that the impact on the existing neighbourhood is not warranted and should not be allowed.
3. The Committee of Adjustment considered all written and oral submissions and finds that, this application does not meet the Planning Act criteria, and is not consistent with the Town Official Plan.

Carried

6. Applications for Minor Variance

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

Please see file B11/2019P minutes for more details.

Member Sheldon brought forward a motion that the minor variance applications A28/2019P and A29/2019P be reused based on the reasons the minor variance is not minor in nature, does not meet the intend of the existing zoning by-law and is not desirable for the development or use of the land.

Moved By Bill Sheldon

Seconded By Bernie Law

Application for relief of Section 13.2 (a) “Minimum Lot Area” to permit a lot area of 432 m², whereas 700 m² is required, is hereby: REFUSED.

The above decision is based on the following reasons:

For specific reasons as stated at the hearing, it is the opinion of the Committee of Adjustment that:

- 1. The variance is not minor in nature.**
- 2. The general purpose and intent of the Zoning By-Law is not maintained.**
- 3. The proposal is not desirable for the appropriate development and/or use of the land.**
- 4. This application is refused without prejudice to any other application in the Town of Pelham.**
- 5. The Committee of Adjustment considered the written and oral comments and finds that this application does not meet the required Planning Act criteria, and is not consistent with the Town Official Plan.**

Application for relief of Section 13.2 (b) “Minimum Lot Frontage” to permit a lot frontage of 14.2 m, whereas 19 m is required, is hereby: REFUSED.

The above decision is based on the following reasons:

For specific reasons as stated at the hearing, it is the opinion of the Committee of Adjustment that:

- 1. The variance is not minor in nature.**
- 2. The general purpose and intent of the Zoning By-Law is not maintained.**
- 3. The proposal is not desirable for the appropriate development and/or use of the land.**
- 4. This application is refused without prejudice to any other application in the Town of Pelham.**
- 5. The Committee of Adjustment considered the written and oral comments and finds that this application does not meet the required Planning Act criteria, and is not consistent with the Town Official Plan.**

Application for relief of Section 13.2 (c) “Maximum Lot Coverage” to permit a lot frontage of 45 %, whereas 30 % is required, is hereby: REFUSED.

The above decision is based on the following reasons:

For specific reasons as stated at the hearing, it is the opinion of the Committee of Adjustment that:

- 1. The variance is not minor in nature.**
- 2. The general purpose and intent of the Zoning By-Law is not maintained.**
- 3. The proposal is not desirable for the appropriate development and/or use of the land.**
- 4. This application is refused without prejudice to any other application in the Town of Pelham.**
- 5. The Committee of Adjustment considered the written and oral comments and finds that this application does not meet the required Planning Act criteria, and is not consistent with the Town Official Plan.**

Application for relief of Section 13.2 (d) “Minimum Front Yard” to permit a front yard of 5m, whereas 7.7m is required, is hereby: REFUSED.

The above decision is based on the following reasons:

For specific reasons as stated at the hearing, it is the opinion of the Committee of Adjustment that:

- 1. The variance is not minor in nature.**
- 2. The general purpose and intent of the Zoning By-Law is not maintained.**
- 3. The proposal is not desirable for the appropriate development and/or use of the land.**
- 4. This application is refused without prejudice to any other application in the Town of Pelham.**
- 5. The Committee of Adjustment considered the written and oral comments and finds that this application does not meet the required Planning Act criteria, and is not consistent with the Town Official Plan.**

Application for relief of Section 13.2 (e) “Minimum Interior Side Yard” to permit an interior side yard of 1.2m, whereas 1.8m is required is, is hereby: REFUSED.

The above decision is based on the following reasons:

For specific reasons as stated at the hearing, it is the opinion of the Committee of Adjustment that:

- 1. The variance is not minor in nature.**
- 2. The general purpose and intent of the Zoning By-Law is not maintained.**
- 3. The proposal is not desirable for the appropriate development and/or use of the land.**
- 4. This application is refused without prejudice to any other application in the Town of Pelham.**

5. **The Committee of Adjustment considered the written and oral comments and finds that this application does not meet the required Planning Act criteria, and is not consistent with the Town Official Plan.**

Carried

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

Please see file B11/2019P minutes for more details.

Member Sheldon brought forward a motion that the minor variance applications A28/2019P and A29/2019P be reused based on the reasons the minor variance is not minor in nature, does not meet the intent of the existing zoning by-law and is not desirable for the development or use of the land.

Moved By Bill Sheldon

Seconded By Bernie Law

Application for relief of Section 13.2 (d) “Minimum Front Yard” to permit a front yard of 6.19m, whereas 7.7m is required, is hereby: REFUSED.

The above decision is based on the following reasons:

For specific reasons as stated at the hearing, it is the opinion of the Committee of Adjustment that:

1. **The variance is not minor in nature.**
2. **The general purpose and intent of the Zoning By-Law is not maintained.**
3. **The proposal is not desirable for the appropriate development and/or use of the land.**
4. **This application is refused without prejudice to any other application in the Town of Pelham.**
5. **The Committee of Adjustment considered the written and oral comments and finds that this application does not meet the required Planning Act criteria, and is not consistent with the Town Official Plan.**

Application for relief of Section 13.2 (e) “Minimum Interior Side Yard” to permit an interior side yard of 1.2m, whereas 1.8m is required, is hereby: REFUSED.

The above decision is based on the following reasons:

For specific reasons as stated at the hearing, it is the opinion of the Committee of Adjustment that:

- 1. The variance is not minor in nature.**
- 2. The general purpose and intent of the Zoning By-Law is not maintained.**
- 3. The proposal is not desirable for the appropriate development and/or use of the land.**
- 4. This application is refused without prejudice to any other application in the Town of Pelham.**
- 5. The Committee of Adjustment considered the written and oral comments and finds that this application does not meet the required Planning Act criteria, and is not consistent with the Town Official Plan.**

Application for relief of Section 13.2 (g) “Minimum Rear Yard” to permit a rear yard of 6.48m, whereas 7.5m is required, is hereby: REFUSED.

The above decision is based on the following reasons:

For specific reasons as stated at the hearing, it is the opinion of the Committee of Adjustment that:

- 1. The variance is not minor in nature.**
- 2. The general purpose and intent of the Zoning By-Law is not maintained.**
- 3. The proposal is not desirable for the appropriate development and/or use of the land.**
- 4. This application is refused without prejudice to any other application in the Town of Pelham.**

5. **The Committee of Adjustment considered the written and oral comments and finds that this application does not meet the required Planning Act criteria, and is not consistent with the Town Official Plan.**

Carried

7. **Minutes for Approval**

None.

8. **Adjournment**

Moved By Bill Sheldon

Seconded By Bernie Law

BE IT RESOLVED THAT this Meeting of the Committee of Adjustment Hearing be adjourned until the next regular meeting scheduled for March 3, 2020 at 4:00 pm.

Carried

Don Cook, Chair

Secretary-Treasurer, Nancy J. Bozzato

Committee of Adjustment**Minutes**

Meeting #: CofA 3/2020
Date: Tuesday, March 3, 2020
Time: 4:00 pm
Location: Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

Members Present Donald Cook
Bill Sheldon
Bernie Law

Members Absent John Klassen
Sandra Marsh

Staff Present Nancy Bozzato
Holly Willford

Others Present Barb Wiens
Curtis Thompson
Derek Young

1. Attendance

Applicants, Agents and Interested Parties

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

Noting that a quorum was present, Chair 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 A8/2020P - 415 Canboro Road

Purpose of Application

Application for relief, pursuant to Section 6.1 (c) "Maximum Height" to a permit an accessory building height of 4.9m whereas the by-law permits 3.7m and Section 7.7 (d) "Maximum (Accessory) Building Height" to permit a maximum (accessory) building height of 4.22m 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

Applicant's Comments

The Applicant made no comments.

Public Comments

There were no verbal comments received from the public.

Members Comments

A Member asked why there were no condition regarding sanitary connections. In response, Nancy Bozzato, Secretary-Treasurer of the Committee of Adjustment indicated the Region was circulated and the stated the Region did not offer any objections and did not request any conditions; therefore, the Region must have been satisfied.

Another Member asked the applicant if he was planning to run any water services into the garage. In response, the applicant indicated he was not.

Moved By Bill Sheldon
Seconded By Bernie Law

Application for relief, pursuant to Section 7.7 (a) “Maximum (Accessory) Lot Coverage” to permit a maximum (accessory) lot coverage of 2% whereas the by-law permits 1%, is hereby: GRANTED.

The above decision is based on the following reasons:

- 1. The variance is minor in nature overall as adequate land area remains available to handle storm water 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 appropriate development and/or use of the land because 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:

None

Application for relief, pursuant to Section 7.7 (d) “*Maximum (Accessory) Building Height*” to permit a maximum (accessory) building height of 4.22m whereas the by-law permits 3.7m is required, is hereby: GRANTED.

The above decision is based on the following reasons:

- 1. The variance is minor in nature given the rural context.**

2. **The general purpose and intent of the Zoning By-Law is maintained.**
3. **The intent of the Official Plan is maintained.**
4. **The proposal is desirable for the appropriate development and/or use of the land as it allows for enhanced storage and use of the facility.**
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:

None

Carried

5.2 A10/2020P - 66-72 Summersides Blvd.

Purpose of Application

Application for relief, pursuant to 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 and By-law No. 4041 (2018) Section 2. RM1-287 Section 6. General Provisions (c) "Garage – setbacks" seeking a minimum interior side yard setback of 1.5 m on the other side, whereas 2.4 m is required and pursuant to Section 6.1 (d) "Maximum (accessory) Lot Coverage" seeking 13 % for 68 and 70 Summersides Boulevard, whereas 10 % is required.

Representation

The Applicant's authorized agent was 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 Agent provided an overview presentation of the application, a copy of the said presentation is on file with the Clerk.

The Applicant indicated he has been working with Derek Young, Supervisor of Engineering to resolve the Town's unsupportive comments regarding the minimum interior side yard setback. Through discussion with Town staff, the authorized Agent indicated he wishes to amend the request of interior side yard setback from 3m to 1.5m, which would therefore be satisfactory to Town staff. Mr. Young indicated the Town would be supportive of such amendment.

Public Comments

There were no verbal comments received from the public.

Members Comments

The Members listened to the discussion between the agent and Mr. Young regarding the proposed interior side yard setback. The Member's agreed with the Agent proposing to revise their application request to permit a 1.5m interior side yard setback, which would be supported by Town Staff.

Moved By Bill Sheldon

Seconded By Bernie Law

Application for relief, 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, is hereby: GRANTED.

The above decision is based on the following reasons:

- 1. The variance is minor in nature overall as the Ontario Building Code (OBC) best regulates these matters.**
- 2. The general purpose and intent of the Zoning By-Law is maintained.**
- 3. The intent of the Official Plan is maintained.**

4. The proposal is desirable for the appropriate development and/or use of the land as it will allow more construction design flexibility for the builder / market.
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. Mutual garages must have an alternative firewall, as per the Ontario Building Code (OBC); and
2. Individual building permits are required for each townhouse unit and detached garage prior to construction commencing

Application for relief, By-law No. 4041 (2018) Section 2. RM1-287 Section 6. General Provisions (c) “Garage – setbacks” seeking a minimum interior side yard setback of 1.5 m on the other side, whereas 2.4 m is required, is hereby: GRANTED.

The above decision is based on the following reasons:

1. The variance is minor in nature.
2. The general purpose and intent of the Zoning By-Law is maintained.
3. The intent of the Official Plan is maintained.
4. The proposal is desirable for the appropriate development and/or use as flooding is unlikely.
5. This application is granted without prejudice to any other application in the Town of Pelham.

6. **The Committee of Adjustment considered the written and oral comments and does not agree with the minor variance report analysis and recommendation that this application does not meet 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. **Mutual garages must have an alternative firewall, as per the Ontario Building Code (OBC); and**
2. **Individual building permits are required for each townhouse unit and detached garage prior to construction commencing**

Application for relief, pursuant to Section 6.1 (d) “Maximum (accessory) Lot Coverage” seeking 13 % for 68 and 70 Summersides Boulevard, whereas 10 % is required is, is hereby: GRANTED.

The above decision is based on the following reasons:

1. **The variance is minor in nature overall as adequate land area remains available for rear yard amenity space and adequate landscaped open space for stormwater management purposed.**
2. **The general purpose and intent of the Zoning By-Law is maintained.**
3. **The intent of the Official Plan is maintained.**
4. **The proposal is desirable for the appropriate development and/or use of the land as it will allow the construction of double car garages for each townhouse unit without eliminating the desirable rear yard amenity spaces.**
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. Mutual garages must have an alternative firewall, as per the Ontario Building Code (OBC); and**
- 2. Individual building permits are required for each townhouse unit and detached garage prior to construction commencing**

Carried

6. Applications for Consent

6.1 B6/2019P - 1295 Pelham Street

Purpose of Application

Application is made for consent to convey an easement in perpetuity of land (Part 3) for an existing sanitary sewer lateral connection in favour of Part 2 on the attached sketch and consent to convey 1,479.8 square metres of land (Part 2). Parts 1 and 3 are to be retained for residential use

Representation

The applicants authorized Agent was present.

Correspondence Received

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

Applicant's Comments

The applicant's Agent indicated he and his client have overall support for the Planning Departments recommendation report however have concerns regarding the condition to conduct an archeological assessment and to remove the wall attached to the existing dwelling that encroaches upon Parts 1 & 3. The Agent requested that these conditions be removed. The agent indicated the archeological assessment would be a

major financial burden on the applicant and stated the requirement was not identified at pre-consultation. The Agent further requested the wall only be removed where the wall encroaches.

A Member asked Curtis Thompson, Town Planner to speak on the request to remove the conditions regarding the archeological assessment and removal of the wall. Mr. Thompson indicated the requirement of an archeological assessment was identified during the 2017 pre-consultation meeting. Mr. Thompson further indicated the condition is that the wall be removed on the parts which are encroaching, therefore no change is required.

A Member asked if the requirement of an archeological assessment is a standard condition. In response, Mr. Thompson indicated it is becoming more standard for the Town and Region. Mr. Thompson further discussed the Town's Heritage Master Plan. Mr. Thompson further indicated this requirement is normally only waived when the proposed development is within an existing development footprint; unlike this application. Barb Wiens, Director of Community Development and Planning explained the process and difference between a Phase I and Phase II archeological assessment. Ms. Wiens also expanding on the ability to hire an archeologist to supervise the excavations as an option.

A Member stated he would not be in favour of waving the requirement for the archeological assessment.

A Member stated this application is a good application for land infill.

Public Comments

There were no verbal comments received from the public.

Members Comments

Member's questions were previously answered.

Moved By Bernie Law

Seconded By Bill Sheldon

Application is made for consent to convey an easement in perpetuity of land (Part 3) for an existing sanitary sewer lateral connection in favour of Part 2 on the attached sketch and consent to convey 1,479.8 square metres of land (Part 2). Parts 1 and 3 are to be retained for residential use, is hereby: GRANTED

The above decision is based on the following reasons:

- 1. The application conforms to the policies of the Town of Pelham Official Plan, Regional Policy Plan and Provincial Policy Statement, and complies with the Town's Zoning By-law.**
- 2. This Decision is rendered having regard to the provisions of Sections 51(24) and 51(25) of the Planning Act, R.S.O., as amended.**
- 3. The Committee of Adjustment considered all written and oral submissions and finds that, subject to the conditions of provisional consent, this application meets Planning Act criteria, is consistent with the Provincial Policy Statement and complies with the Growth Plan, the Niagara Region Official Plan and the Town Official Plan.**

The above decision is subject to the following conditions:

To the Satisfaction of the Director of Public Works

- 1. 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.**
- 2. 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.**
- 3. Ensure that the remnant land (Part 2) continue to be adequately serviced to the satisfaction of the Public Works Department.**
- 4. 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.**
- 5. 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.

To the Satisfaction of the Director of Community Planning & Development

- 1. Conduct an archaeological assessment and receive clearance from the Ministry of Tourism, Culture, and Sport.**
- 2. Remove the wall attached to the existing dwelling that encroaches upon Parts 1 & 3, to the satisfaction of the Director of Community Planning & Development.**
- 3. Sign the Town of Pelham's standard "Memorandum of Understanding" explaining that development charges and cash-in-lieu of the dedication of land for park purposes are required prior to the issuance of a Building Permit.**

To the Satisfaction of the Secretary-Treasurer

- 1. That the Secretary-Treasurer be provided with a registrable legal description of the subject parcel, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.**
- 2. That the final certification fee of \$395, payable to the Treasurer, Town of Pelham, be submitted to the Secretary-Treasurer. All costs associated with fulfilling conditions of consent shall be borne by the applicant.**

Carried

6.2 B3/2020P - 31 Emmett Street

Purpose of Application

Application is made for consent to convey 75.25 square metres of land (Part 3), to be added to the abutting property to the east (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 reconstruction of a residential dwelling on Part 1. Part 1 is to be retained for continued residential use known municipally as 31 Emmett Street.

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. Mike and Carol Jones Comments

Applicant's Comments

The applicant indicated he is in agreement with the staff report and suggested conditions. In addition, the applicant further explained the application was a way to equalize the lot frontages. In addition, the applicant briefly indicated his history on Emmett Street and his experience in development.

Public Comments

Mike Jones provided the Committee Members each a copy of his email to the Town and the response received from Jason Marr, the Director of Public Works. Mr. Jones indicated he is concerned about drainage and rainwater. Mr. Jones further discussed the response to his correspondence by Mr. Marr. In response, Derek Young, Supervisor of Engineering indicated Public Work's will be reconstructing the stormwater outlet system in the area. The Chair indicated the Town is aware of drainage issues and is working to correct them. Furthermore, the Chair advised issues such as these are Council issues. A Member asked that the condition regarding drainage plan include "including the side yards of adjoining properties".

Cari Pupo indicated she is not opposed to two homes being built, however is objecting to how this has been handled by the Town. She indicated the construction workers for the applicant put dirt and other debris within her ditch. She further stated she suffered \$40,000 in damage from her basement being flooded. Ms. Pupo indicated the required works being referenced by the Town was deferred from 2013. In response, the Applicant indicated when he heard dirt was on the road he ensured it was cleaned right away.

Cheryl MacDavid indicated she has concerns with regard to drainage. She stated she had a flood in her home as her sub pump failed from over use. She has now replaced with a triple safe system. Ms. MacDavid indicated she also has concerns with regards to the propose improvements Ms. Young discussed. She indicated she registered to speak to Council in 2013 when the improvements were originally to take place. She stated she was advised by staff the improvements were to take place and she did not speak. In response, Mr. Young provided further explanation on the budgeting and the proposed improvements. The Chair indicated these issues are beyond the Committee's control and are Council issues.

Mr. Jones asked if the subject lands are two lots. Ms. Pupo further had questions regarding the ability of the applicant to build two homes. In response, the Chair indicated the property is already two lots; therefore, the applicant may proceed to build two homes on the lands. The applicant however, is applying for a boundary adjustment in an effort to provide both lots equal frontage. The Chair and Town staff stressed the applicant may apply for building permits tomorrow and build two homes if the homes comply with the zoning by-law.

Jackie Laughton indicated she is concerned about water and drainage. She stated the backyard behind her is constantly underwater and stated this is a large problem at the Town.

Ms. Bozzato reassured the neighbors all comments received are recorded and the minutes of the meeting are forwarded to Council. Ms. Bozzato stated the application before the Committee is to deal with the lot frontages. The applicant stated he agrees with Ms. Bozzato and the application is focused on potentially moving five feet from one property to the other.

Members Comments

A Member reiterated this application is a boundary adjustment and that there are already two lots currently. In response, Curtis Thompson, Town Planner indicated that is correct. The Town has conducted a title search and received confirmation for the Town's solicitor and the applicant's solicitor that these are two lots.

The Members discussed potential drainage issues in the Town and in regards to this application. The Members further discussed the

requirements of the drainage plan as a condition to the granting of the application.

Moved By Bernie Law

Seconded By Bill Sheldon

Application is made for consent to convey 75.25 square metres of land (Part 3), to be added to the abutting property to the east (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 reconstruction of a residential dwelling on Part 1. Part 1 is to be retained for continued residential use known municipally as 31 Emmett Street, is hereby: GRANTED

The above decision is based on the following reasons:

- 1. The application conforms to the policies of the Town of Pelham Official Plan, Regional Policy Plan and Provincial Policy Statement, and complies with the Town's Zoning By-law.**
- 2. This Decision is rendered having regard to the provisions of Sections 51(24) and 51(25) of the Planning Act, R.S.O., as amended.**
- 3. The Committee of Adjustment considered all written and oral submissions and finds that, subject to the conditions of provisional consent, this application meets Planning Act criteria, is consistent with the Provincial Policy Statement and complies with the Growth Plan, the Niagara Region Official Plan and the Town Official Plan.**

The above decision is subject to the following conditions:

The above decision is subject to the following conditions:

To the Satisfaction of the Director of Public Works

- 1. Submit a comprehensive overall Lot Grading & Drainage Plan for all parcels, including the side yards of adjoining properties, demonstrating that the drainage neither relies upon, nor negatively impacts neighbouring properties, to the satisfaction of the Director of Public Works.**
- 2. 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.

3. 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.
4. 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.

To the Satisfaction of the Director of Community Planning & Development

1. Sign the Town of Pelham's standard "Memorandum of Understanding" explaining that development charges and cash-in-lieu of the dedication of land for park purposes are required 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.

To the Satisfaction of the Secretary-Treasurer

1. Pursuant to Section 50(12) of the Planning Act, R.S.O. 1990, as amended, it is hereby stipulated that Section 50(3) or 50(5) shall apply to any subsequent conveyance of, or other transaction involving, the identical subject parcel of land. Therefore, once the subject parcel of land has been conveyed to the owner of the parcel abutting to the east, the subject parcel and the said abutting parcel shall merge in title and become one contiguous parcel of land. A solicitor's written undertaking shall be provided to the Secretary-Treasurer indicating that the necessary steps to implement the conveyance will be taken, together with the registrable legal descriptions of the subject parcel and the consolidated parcel.

2. That the Secretary-Treasurer be provided with a registrable legal description of the subject parcel, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.
3. That the final certification fee of \$395, payable to the Treasurer, Town of Pelham, be submitted to the Secretary-Treasurer. All costs associated with fulfilling conditions of consent shall be borne by the applicant.

Carried

7. Minutes for Approval

Moved By Bernie Law

Seconded By Bill Sheldon

That the minutes of the November 5, 2020, 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 April 7, 2020 at 4:00 pm.

Carried

Don Cook, Chair

Secretary-Treasurer, Nancy J. Bozzato

Committee of Adjustment**Minutes**

Meeting #: CofA 5/2020
Date: Tuesday, July 21, 2020
Time: 4:00 pm
Location: Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

Members Present Donald Cook
John Klassen
Bernie Law

Staff Present Nancy Bozzato
Holly Willford
Sarah Leach
Curtis Thompson

1. Attendance

Applicants, Agents and viewing members of the public via Town of Pelham YouTube Channel by Live-streaming.

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 virtually 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 A18/2020P - 364 Sumbler Road

Purpose of Application

Application for relief of Section 7.7 (a) "Maximum Accessory Lot Coverage" to permit a maximum accessory lot coverage of 1.9% whereas the by-law permits 1% and Section 7.7 (d) "Maximum Building Height" to permit a maximum building height of 5.92m whereas the by-law permits 3.7m.

Representation

The Agent was electronically present.

Correspondence Received

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

Applicant's Comments

The Applicant's Agent, Hank Nauta, from Nauta Homes Designs advised the applicant indicated a house fire nine years ago caused the subject lands to be disturbed and therefore would like to request the requirement for an archaeological assessment be waived. The Agent indicated the applicant would like to build on a 48 inch deep frost footing opposed to a slab on grade foundation. In response, the Chair indicated this may need to be vetted by the Planning Department via records. The Chair further requested the advice of the Secretary Treasurer Ms. Nancy Bozzato as to how this application should be dealt with. In response, Ms. Bozzato indicated the condition could be imposed "if required" or the Committee could grant the application without including the condition.

Mr. Nauta indicated he could provide the Town a legal document, perhaps a statement notarized indicating the house fire occurred and the grounds were then substantially disturbed. Ms. Bozzato indicated the condition could include the words "if required" therefore, the Director of Planning can determine if the requirement is needed.

A Member indicated the Director of Planning stating the Planning Department will not waive the said condition requirement; however, the Committee may waive the condition, if they wish. The Agent indicated he was not aware of the said email and may wish to request a deferment. Mr. Curtis Thompson, Town Planner, indicated the Planning Department is not disputing the fire; rather Town staff are making a recommendation based on their professional opinion.

The Agent indicated he would be able to provide legal proof of the house fire and that the lands were substantially disturbed. A Member indicated he was a volunteer firefighter and lands are substantially disturbed from the fire clean up. The Member asked Mr. Thompson if an archaeological assessment was completed when the house was built. In response, Mr. Thompson indicated it is not likely an archaeological assessment was conducted when the home was built. Mr. Thompson indicated the planning act application triggers the ability to request an archaeological assessment. The Member indicated the fire clean up would have disturbed the entire lands and therefore the lands are no longer raw.

A Member indicated an on slab foundation would require deep digging and therefore did not see an issue with the preferred foundation (frost footings) proposed. In addition, the Member indicated he believed the requirement of an archaeological assessment was a moot point as the lands have been greatly disturbed. Another Member agreed. The Members discussed a building permit would be the only condition.

Public Comments

There were no pre-registered members of the public to speak concerning this application. Ms. Holly Willford, Assistant Secretary Treasurer checked the clerks@pelham.ca email address at 4:51 pm and confirmed no e-mails has been received with regard to the subject application. Ms. Willford closed the public comment portion of the application.

Members Comments

No additional comments were made.

Moved By Bernie Law

Seconded By John Klassen

Application for relief of , Section 7.7 (a) “Maximum Accessory Lot Coverage” to permit a maximum accessory lot coverage of 1.9% whereas the by-law permits 1% and Section 7.7 (d) “Maximum

Building Height” to permit a maximum building height of 5.92m 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 as adequate land area remains available to handle stormwater runoff, the existing septic system and preserve a rear yard amenity area and given the rural context and as no negative impacts are anticipated by the adjacent neighbours.**
- 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 land as it will allow for enhanced use of the rural residential 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:

- 1. That all necessary building permits are required prior to construction commencing to the satisfaction of the Chief Building Official and shall not be approved for any living accommodations or plumbing within the accessory building.**

Carried

5.2 A19-2020P - 1328 Effingham Street

Purpose of Application

Application for relief of Section 7.4 (f) “Minimum Side Yard” to permit a minimum side yard of 0.6m whereas the by-law requires 9.0m.

Representation

The Applicant was electronically present.

Correspondence Received

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

Applicant's Comments

The Applicant indicated he had no further comments.

Public Comments

There were no pre-registered members of the public to speak concerning this application. Ms. Holly Willford, Assistant Secretary Treasurer checked the clerks@pelham.ca email address at 5:06 pm and confirmed no e-mails has been received with regard to the subject application. Ms. Willford closed the public comment portion of the application.

Members Comments

A Member asked if the Applicant will be building in the existing footprint. The Applicant confirmed this was the case. A Member asked if the neighbors are aware of the proposal. In response, the Applicant indicated they are aware.

Moved By Bernie Law

Seconded By John Klassen

Application for relief of , Section 7.4 (f) “Minimum Side Yard” to permit a minimum side yard of 0.6m whereas the by-law requires 9.0m, is hereby: GRANTED.

The above decision is based on the following reasons:

1. **The variance is minor in nature as the existing legal non-complying attached garage (situated in the same footprint) has not posed any adverse impacts to the abutting neighbours.**

2. **The general purpose and intent of the Zoning By-Law is maintained.**
3. **The intent of the Official Plan is maintained.**
4. **The proposal is desirable for the appropriate development and/or use of the land as it will allow for a second floor to be constructed above the garage.**
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 and shall not be approved for any living accommodations or plumbing within the accessory building.**

Prior to the issuance of the Building Permit:

2. **To the satisfaction of the Director of Public Works that:**
 1. **Submit a comprehensive overall Lot Grading Plan, illustrating overland drainage routes on the property, with special attention to how the reduced side yard will affect drainage routes along the north lot line, to the satisfaction of the Director of Public Works. Drainage is not permitted to adversely impact neighbouring properties.**

Carried

6. Applications for Consent

6.1 B4/2020P - 725 Quaker Road

Purpose of Application

Application for consent to convey 2,189.97 square metres of land (Part 2), to be added to the abutting property to the east, for future development. Part 1 is to be retained for continued residential use of the dwelling known municipally as 725 Quaker Road.

Representation

The Agent, Matt Kernahan from Upper Canada Consultants, was electronically present.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Public Works
3. Town of Pelham Building Department
4. Niagara Region
5. NPCA
6. Bell Canada

Applicant's Comments

The Agent made no further comments.

Public Comments

There were no pre-registered members of the public to speak concerning this application. Ms. Holly Willford, Assistant Secretary Treasurer checked the clerks@pelham.ca email address at 5:23 pm and confirmed no e-mails has been received with regard to the subject application. Ms. Willford closed the public comment portion of the application.

Members Comments

The Members briefly mentioned the previous related consent applications and indicated the lands will be joined for a future development.

Moved By John Klassen
Seconded By Bernie Law

Application is made for consent to convey 2,189.97 square metres of land (Part 2), to be added to the abutting property to the east, for future development. Part 1 is to be retained for continued residential use of the dwelling known municipally as 725 Quaker Road, is hereby: GRANTED

The above decision is based on the following reasons:

- 1. The application conforms to the policies of the Town of Pelham Official Plan, Regional Policy Plan and Provincial Policy Statement, and complies with the Town's Zoning By-law.**
- 2. This Decision is rendered having regard to the provisions of Sections 51(24) and 51(25) of the Planning Act, R.S.O., as amended.**
- 3. The Committee of Adjustment considered all written and oral submissions and finds that, subject to the conditions of provisional consent, this application meets Planning Act criteria, is consistent with the Provincial Policy Statement and complies with the Growth Plan, the Niagara Region Official Plan and the Town Official Plan.**

The above decision is subject to the following conditions:

To the Satisfaction of the Director of Public Works

- 1. Confirm in writing to the Town that Part 2 does not rely on Part 1 for any servicing or drainage needs.**

To the Satisfaction of the Director of Community Planning & Development

- 2. Obtain and close a demolition permit for the existing detached garage on Part 2. If the existing structure is being relocated to Part 1, a demolition permit is still required**

To the Satisfaction of the Secretary-Treasurer

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

Therefore, once the subject parcel of land has been conveyed to the owner of the parcel abutting to the east, the subject parcel and the said abutting parcel shall merge in title and become one contiguous parcel of land. A solicitor's written undertaking shall be provided to the Secretary-Treasurer indicating that the necessary steps to implement the conveyance will be taken, together with the registrable legal descriptions of the subject parcel and the consolidated parcel. That the Secretary-Treasurer be provided with a registrable legal description of the subject parcel, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.

4. That the final certification fee of \$395, payable to the Treasurer, Town of Pelham, be submitted to the Secretary-Treasurer. All costs associated with fulfilling conditions of consent shall be borne by the applicant.

Carried

7. **Minutes for Approval:** None.

8. **Adjournment**

Moved By John Klassen

Seconded By Bernie Law

BE IT RESOLVED THAT this Meeting of the Committee of Adjustment Hearing be adjourned until the next regular meeting scheduled for August 11, 2020 at 4:00 pm.

Carried

Don Cook, Chair

Secretary-Treasurer, Nancy J. Bozzato

Committee of Adjustment
Minutes

Meeting #: CofA 8/2020
Date: Tuesday, August 11, 2020
Time: 4:00 pm
Location: Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

Members Present Donald Cook
 John Klassen
 Bernie Law

Members Absent Sandra Marsh

Staff Present Nancy Bozzato
 Holly Willford
 Sarah Leach
 Curtis Thompson

Others Present Applicants, Agents and Preregistered Members of the Public

1. Attendance

Applicants and Agents.

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

Ms. Holly Willford, Assistant Secretary Treasurer to the Committee of Adjustment, advised that she was experiencing technical difficulties with the Livestream technology. Ms. Willford contacted IT staff who investigated the issue and indicated the problem could not be resolved that same evening.

Ms. Nancy Bozzato, Secretary Treasurer to the Committee of Adjustment, indicated the meeting must be recessed and the applications will be rescheduled as soon as possible. Ms. Bozzato and Ms. Willford apologized to the Committee, Applicants, Agents and preregistered members of the public and stated once a new hearing date is arranged staff will reach out to all stakeholders.

Moved By John Klassen
Seconded By Bernie Law

THAT the meeting stand in recess.

Carried

3. **Disclosure of Pecuniary Interest and General Nature Thereof**
4. **Requests for Withdrawal or Adjournment**
5. **Applications for Minor Variance**
 - 5.1 **A20/2020P - 1010 Canboro Road**
 - 5.2 **A21/2020P - 590 Canboro Road**
6. **Applications for Consent**
 - 6.1 **B2/2019P - 204 Canboro Road**
7. **Minutes for Approval**
8. **Adjournment**

Don Cook, Chair

Secretary-Treasurer, Nancy J. Bozzato

Committee of Adjustment
Minutes

Meeting #: CofA GM 02/2020
Date: Monday, August 17, 2020
Time: 4:00 pm
Location: Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

Members Present Donald Cook
 John Klassen
 Sandra Marsh
 Bernie Law

Staff Present Nancy Bozzato
 Holly Willford

1. Attendance

Members of the Committee and the Secretary and Assistant Secretary Treasurer to the Committee were in attendance.

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.

3. Disclosure of Pecuniary Interest and General Nature Thereof

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

4. Election of Vice Chair Position: Period of September, 2020 to November, 2022 or until successors are appointed

Ms. Holly Willford, Assistant Secretary Treasurer to the Committee called for nominations for the position of Vice Chair. A Member nominated Mr. John Klassen. Mr. Klassen accepted the said nomination.

Moved By Sandra Marsh
Seconded By Bernie Law

THAT John Klassen be appointed as Vice-Chair of Committee of Adjustment.

Carried

5. Minutes for Approval

None.

6. Adjournment

Moved By Bernie Law
Seconded By Sandra Marsh

BE IT RESOLVED THAT this Meeting of the Committee of Adjustment Hearing be adjourned until the next regular meeting scheduled for September 1, 2020 at 4:00 pm.

Carried

Don Cook, Chair

Secretary-Treasurer, Nancy J. Bozzato