

**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](mailto: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](mailto: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**

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Don Cook, Chair

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Secretary-Treasurer, Nancy J. Bozzato