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 storwater 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

Donald Cook

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Don Cook, Chair

Nancy J. Bozzato

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Secretary-Treasurer, Nancy J. Bozzato