

**Committee of Adjustment****Minutes**

**Meeting #:** CofA 11/2020  
**Date:** Tuesday, November 3, 2020  
**Time:** 4:00 pm  
**Location:** Town of Pelham Municipal Office - Council Chambers  
20 Pelham Town Square, Fonthill

Members Present Donald Cook  
Sandra Marsh  
Bernie Law

Members Absent John Klassen

Staff Present Nancy Bozzato  
Holly Willford  
Sarah Leach  
Curtis Thompson  
Tolga Aydin

Others Present Applicants, Agents and viewing Public via Livestream

**1. Attendance**

Applicant, 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.

### **5. Applications for Minor Variance**

#### **5.1 A27/2020P - 571 Roland Road**

##### **Purpose of Application**

Application for relief of 7.4 (d) "Minimum Front Yard" permit a minimum front yard setback of 8.7m whereas the by-law requires 13m to recognize the existing legal non-complying dwelling and to permit a new covered porch.

##### **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 Planning & Development Services
5. NPCA
6. Callum and Faye Shedden

##### **Applicant's Comments**

The Applicant had no additional 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 4:10 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** Sandra Marsh

**Seconded By** Bernie Law

**Application for relief of Section 7.4 (d) “Minimum Front Yard” permit a minimum front yard setback of 8.7m whereas the by-law requires 13m to recognize the existing legal non-complying dwelling and to permit a new covered porch, is hereby: GRANTED.**

**The above decision is based on the following reasons:**

- 1. The variance is minor in nature overall because it will help to improve the Roland Road streetscape by enhancing the traditional architectural design of the early 20th century brick dwelling.**
- 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 for improved living arrangements and usage of the existing legal non-complying dwelling with a covered front amenity area.**
- 5. This application is granted without prejudice to any other application in the Town of Pelham.**
- 6. No objections were received from commenting agencies or abutting property owners.**
- 7. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.**

**The above decision is subject to the following conditions:**

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

**Carried**

## **6. Applications for Consent**

### **6.1 B9/2020P - 1431 Station Street**

#### **Purpose of Application**

Application for consent to partial discharge of mortgage and consent to convey 2,850.3 square 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.

#### **Representation**

The Agent, Stephen Kaiser from Kaiser & Associates, was electronically present.

#### **Correspondence Received**

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

#### **Applicant's Comments**

Mr. Kaiser indicated he is working on a land assembly for a future plan of subdivision which is likely to come forward in 2021. He thanked staff for their comments and indicated he is prepared to answer any questions.

#### **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 4:17 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** Sandra Marsh

**Application is made for consent to partial discharge of mortgage and consent to convey 2,850.3 square 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, 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. No objections to this proposal were received from commenting agencies or neighbouring property owners.**
- 4. 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 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.**
- 2. 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.**

**To the Satisfaction of the Treasurer**

- 1. 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 8th, 2020 be paid in full to the town, to the satisfaction of the Treasurer

**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 south (Part 2 to merge with Part 3 and 4 of the sketch), the subject parcel and the said abutting parcel shall merge in title and become one contiguous parcel of land.
2. 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.
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**

**6.2 B10/2020P - 1012 Cream Street**

**Representation**

The Agent, William Heikoop 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 Planning & Development Services
5. NPCA

### **Applicant's Comments**

Mr. Heikoop indicated he generally concurs with the report offered by staff. He indicated the lands are to accommodate a storm water management plan in relation to a secondary plan process. He stated the application does not propose physical changes to the lands, rather changes the land boundaries. Mr. Heikoop indicated the lands are under a sensitive agreement of purchase and sale with an expiry date of December 6th. He stated the proposed condition regarding the zoning would impact the property's ability to close and respectfully requested the Committee accept a solicitor's undertaking to bring the minor variance application forward as an alternative.

### **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 4:31 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 requested staff to advise if an undertaking would be sufficient as an alternative to the zoning condition and requested further clarification regarding the requirement of a road widening. In response, Ms. Nancy Bozzato, Secretary Treasurer indicated the condition of road widening is required to ensure Part 3 is no longer a whole of a lot to facilitate the merging of the lands. Ms. Bozzato indicated she had concerns with the suggestion of accepting an undertaking instead of the zoning condition as presented, noting this would have the effect of creating a lot that is not in compliance with the Zoning By-law. Once the final certificate is issued on the consent, enforcement for a zoning amendment becomes difficult. She requested Mr. Curtis Thompson, Planner to also speak to this. Mr. Thompson indicated an issue with accepting the undertaking is once the certificate of consent is issued and the lot is created it is out of the Town's control. In addition, he indicated the stated zoning condition is required to ensure the lot (Part 1) is a legal lot. He stated without the required zoning the lot would be an illegal lot. Mr. Thompson indicated the Town cannot create illegal lots.

Ms. Bozzato suggested Mr. Heikoop seek an extension to the Agreement of Purchase and Sale. In response, Mr. Heikoop indicated the closing expires December 6<sup>th</sup> with the current owner and requested the condition to be that an application be submitted instead. In response, Ms. Bozzato stated an application submitted does not guarantee approval or the appeal period passing uncontested.

A Member indicated he understands Mr. Heikoop's situation, however would not be prepared to grant the application with changed conditions. He indicated he would be prepared to grant the consent with conditions presented.

A Member asked if the application could be amended. In response, Ms. Bozzato indicated an amendment in the application would require additional circulation.

A Member indicated he does not have a solution for Mr. Heikoop other than granting the consent and Mr. Heikoop dealing with the minor variance later.

**Moved By** Sandra Marsh

**Seconded By** Bernie Law

**Application 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 for continued residential use of the dwelling known municipally as 1012 Cream 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. No objections to this proposal were received from commenting agencies or neighbouring property owners.**
- 4. 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 both Parts demonstrating that drainage neither relies upon, nor negatively impacts adjacent properties, and that all drainage will be contained within their respective lots.**
- 2. 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.**
- 3. Ensure the Secretary-Treasurer is provided with sufficient evidence indicating that the conveyance of a minimum 0.1 m<sup>2</sup> 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.**

**To the Satisfaction of the Director of Community Planning and Development**

- 1. That final approval of all necessary zoning approvals be obtained for Part 1 (Minimum Lot Frontage, Minimum Lot Area and Minimum Side Yard)**
- 2. 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 west (Part 2 to merge with Part of the sketch), the subject parcel and the said abutting parcel shall merge in title and become one contiguous parcel of land.

2. 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.
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.

**7. Minutes for Approval**

**Moved By** Donald Cook

**Seconded By** Bernie Law

**That the minutes of the February 25, March 3, July 21, and August 11, 2020 Committee of Adjustment Hearing be approved.**

**Carried**

**Moved By** Sandra Marsh

**Seconded By** Bernie Law

**That the minutes of the August 17, 2020, Committee of Adjustment Hearing be approved.**

**Carried**

**8. Adjournment**

**Moved By** Sandra Marsh

**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 December 1, 2020 at 4:00 pm.**

**Carried**

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Don Cook, Chair

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Secretary-Treasurer, Nancy J. Bozzato