

Committee of Adjustment AGENDA

CofA 12/2020

December 1, 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. **A28/2020P - 1 Highway 20 West**
 1. Town of Pelham Planning Department
 2. Town of Pelham Public Works
 3. Town of Pelham Building Department
 4. Niagara Region Planning and Development Services

1

6. Applications for Consent

6.1. B11/2020P - 282 Canboro Road

15

1. Town of Pelham Planning Department
 2. Town of Pelham Public Works
 3. Town of Pelham Building Department
 4. Niagara Region Planning and Development Services
 5. NPCA
 6. Hydro One
 7. Bell
 8. Beverly Sneath
 9. Shawn Reeves
- Pre-Registered Members of the Public
1. Shawn Reeves

7. Minutes for Approval

36

September 1, 2020

November 3, 2020

8. Adjournment

November 26, 2020

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

**Re: Minor Variance Application A28/2020P
1 Highway 20 West (Regional Road 20), Pelham
Part of Lot 55 NP 717
Roll No. 2732 020 002 00100**

The subject land is located on the northwest corner of Highway 20 West (Regional Road 20) and Pelham Street, known municipally as 1 Highway 20 West and legally described above, in the Town of Pelham.

The subject land is zoned 'General Commercial' (GC) in accordance with Pelham Zoning By-law 1136 (1987), as amended. The applicant is proposing to construct a 3 storey mixed use building with a residential apartment on the ground floor. Relief is requested from:

Section 6.16 (d) (i) "Ingress and Egress – Minimum 2-way Drive Aisle Width" – to permit a drive aisle of 6.25m for two-way traffic whereas the by-law requires 7.5m drive aisle for two-way traffic;

Section 19.3 (a) "Maximum (Residential) Gross Floor Area" – to permit not more than 80% of the gross floor area whereas the by-law allows for not more than 50% gross floor area and whereas the property received a minor variance approval to allow not more than 75%;

Section 19.3 (b) and 20.1 (c) "Dwelling Unit to the Rear of Ground Floor Behind Commercial" – to permit a dwelling unit behind a commercial use whereas the by-law requires a dwelling unit shall only be permitted above the ground floor of any commercial use;

Section 20.2 (c) "Maximum Lot Coverage" – to permit a maximum Lot Coverage of 48% whereas the by-law allows 40% and whereas the property received a minor variance approval to allow 42%.

For Committee's information, Minor Variance A1/2019 was approved by the Committee of Adjustment on February 7, 2019 to facilitate the construction of a 3-storey, mixed-use building consisting of 212m² of commercial space at-grade with 6 residential apartments above. Relief was granted for the following:

Section 6.16 (a) "Minimum Parking" to allow 7 parking stalls whereas 18 are required;

Section 19.3 (a) "Maximum gross floor area (GFA) used for residential" to allow 75% of the GFA whereas 50% is required;

Section 19.3 (c) "Minimum Landscaped Amenity Area" to allow 0m² whereas 55m² per dwelling unit is required;

Section 20.2 (c) "Maximum Lot Coverage" to allow 42% whereas 40% is required.

Section 20.2 (f) (iii) “Minimum Side Yard abutting a street” to allow 1.44m whereas 3m is required.

Section 20.3 (c) “Minimum Front Yard” to allow 1m whereas 3m is required.

Section 20.3 (d) “Minimum Rear Yard” to allow 3m whereas 4m is required.

The property owner received Site Plan Approval from Council in September 2019. The applicant is now proposing the addition of a ground floor residential unit as well as some minor changes to the building design and parking area layout which have resulted in the need for the additional variances. The proposed changes will result in improvements to the site’s function and the building design. The proposed changes to the building and site design are considered minor changes to the approved Site Plan Agreement and therefore no amendment is required.

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 ‘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.

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

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

Regarding Policy 1.1.3.2 a) 1. (Efficient land use) – The proposed development is seeking to make more efficient use of the land by making changes to the parking area layout and allowing for an additional residential unit. Two commercial units (of reduced size) are still being provided on the ground floor in the front of the building. The proposed changes to the building and parking area and the addition of an apartment dwelling behind the commercial units will add to the available housing options in Downtown Fonthill while also addressing the need for an at-grade, commercial frontage filling in an empty void of the downtown streetscape. The proposed changes will make more efficient use of existing infrastructure and public services.

The proposed minor variance application has been submitted to seek relief from certain site-specific zoning

provisions in order to facilitate revisions to the parking area layout, the addition a residential unit on the ground floor and some changes to the building design, specifically the width of the parking area drive aisle, the gross floor area for residential use, the location of a residential unit on the ground floor and the lot coverage. Planning staff are of the opinion the requested zoning relief is consistent with the PPS and promotes appropriate development standards that help facilitate compact form while continuing to meet *intensification* policy objectives.

Growth Plan for the Greater Golden Horseshoe (2019)

This Plan informs decision-making regarding growth management and environmental protection in the GGH.

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 subject site is located Downtown and is within walking distance to schools, public / private amenities, institutional uses and shopping facilities. The proposed variances will support the achievement of a *complete community* by adding an additional residential dwelling unit and facilitate a more functional layout for the mixed use building on a high profile corner in Downtown Fonthill.

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 requested variances to allow for the additional ground floor residential dwelling unit and change the parking area layout and building design will facilitate additional residential intensification and redevelopment. Further, Regional staff reviewed the site plan and the proposed changes in accordance with the requirements of the Regional Official Plan and offered no objections to the proposed changes. It is Planning staff's opinion that the requested variances conform to the policies of the Regional Official Plan.

Pelham Official Plan, 2014

The local Official Plan designates the subject land as ‘Downtown’.

B1.2.3 states the intent of the ‘Downtown’ designation is to accommodate a diverse mix of commercial, residential, cultural and social uses. In Downtown Fonthill specifically, this Plan envisions more housing opportunities.

Policy B1.2.4.5 provides the following design guidelines for Downtown parking areas:

- a) Wherever possible, parking for new development should be located below grade or to the rear of buildings with access by a rear lane;
 - ✓ Conforms.
- b) Rear lanes should be utilized wherever possible for access to parking areas and provision should be made for the acquisition of land or easements through development approvals to create rear lanes;
 - ✓ Laneway already exists and will be enhanced as part of the Site Plan Approval / Agreement.
- c) Business owners are encouraged to consolidate parking areas and access for contiguous lots;
 - ✓ The proposed parking area is not planned to be shared with neighbouring properties, however, the design is conducive to future shared parking arrangements if circumstances ever changed.
- d) Direct access to parking area from the main street will be discouraged for lots with less than 30m of frontage;
 - ✓ Conforms.
- e) Pedestrian routes from parking areas to buildings should be clearly identified, safe and accessible to all persons.
 - ✓ Conforms on the approved site plan agreement.

New commercial / residential development in Downtown Fonthill will promote live-work-play arrangements, which helping to create a *complete* community by encouraging people to not only shop and visit Downtown, but to also live and use modes of transportation. The subject land is adjacent to Marlene Stewart Streit Park and the Lathrop Nature Preserve which provide convenient recreational opportunity for an urban location.

It is Planning staff’s opinion that the requested variances conform to the policies of the Town’s Official Plan by allowing for additional housing opportunities as well as building and site design that conform to the design guidelines.

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

The subject lands are zoned ‘General Commercial’ (GC) according to the Zoning By-law. The GC zone permits a range of commercial uses as well as residential uses above the ground floor.

Section 6.16 (d) Ingress and Egress

- | | | |
|-----|--|-----------------|
| (i) | Requires: 7.5 m width for two- way traffic | Requests: 6.25m |
|-----|--|-----------------|

Section 19.3 Regulations for Residential Uses

- (a) Gross Floor Area

Maximum: 50%	Requests: 75%
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- (b) Location

Permitted: Above Ground Floor

Requests: Dwelling Unit on Ground Floor

Section 20.1 Permitted Uses in GC zone

(c) Dwelling Units Above Ground Floor

Requests: Dwelling Unit on Ground Floor

Section 20.2 Regulations for Permitted Uses (Commercial)

(d) Maximum Lot Coverage

Permitted: 40%

Requests: 48%

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.	<ul style="list-style-type: none">Reducing the minimum drive aisle is minor as the parking area will still function well and allow for safe and practical movement of vehicles. Further the drive aisle is being reduced in only one location where the pavement is wider where the striping for the access to the accessible parking space is located.Allowing the residential unit on the ground floor behind the commercial units will not affect the appearance of the building as commercial along the frontage and commercial uses are still being provided at grade.Increasing the lot coverage will not negatively affect the function of the site adequate space for appropriate parking, pedestrian connections and amenity space for the new residential dwelling unit and storm water can be appropriately managed.
2. The variance is desirable for the development or use of the land.	<ul style="list-style-type: none">Reducing the minimum drive aisle will allow for a more efficient use of the parking area while facilitating some outdoor amenity space for the ground floor residential unit.Allowing the residential unit on the ground floor will facilitate an additional residential apartment dwelling in a desirable location and support existing and future commercial uses.Increasing the lot coverage will allow for an improved building design and site function in a key location in Downtown Fonthill.
3. The variance maintains the general intent and purpose of the Official Plan.	<ul style="list-style-type: none">Reducing the minimum drive aisle as the parking area will meet the requirements of Policy B1.2.4.5 relating to parking areas in the Downtown.Allowing the residential unit on the ground floor will facilitate an additional residential apartment dwelling within the Downtown designation where residential intensification is encouraged and residents can work close to where they live and access services by active transportation.

	<ul style="list-style-type: none"> Increasing the lot coverage will facilitate development of the mixed use building which is supported in the Downtown designation.
4. The variance maintains the general intent and purpose of the Zoning By-law.	<ul style="list-style-type: none"> Reducing the minimum drive aisle maintains the general intent and purpose of the Zoning By-law as the parking area will function appropriately and allow for the two-way movement of traffic through the parking area. Allowing the residential unit on the ground floor maintains the general intent and purpose of the Zoning By-law as residential uses are permitted in the GC zone and commercial uses will still occupy the majority of the ground floor with the appearance being commercial along the property frontage. Increasing the lot coverage will facilitate the development of the site for a mixed use building which is a permitted use in the GC zone.

Agency & Public Comments

On November 2, 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 Region (November 17, 2020)
 - No objection to this minor variance application from a Provincial or Regional perspective, subject to the satisfaction of any local requirements. Regional staff note that the requirement for the filing of a Record of Site Condition (RSC) should be addressed prior to issuance of a building permit
- Niagara Peninsula Conservation Authority (November 17, 2020)
 - No comments.
- Building Department (November 20, 2020)
 - Building permits are required.
- Public Works Department (November 19, 2020)
 - No comments.

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

Planning Staff Comments

A pre-consultation meeting was held with the owner, representatives and staff from the Town and Niagara Region Planning & Development Services on September 17, 2020 to discuss the changes to the development.

Planning staff are familiar with the property, the proposed development and understand the neighbourhood context which consists of traditional Downtown style, mixed-use commercial buildings common of their era. A Planning Justification Report was submitted in support of the application by Upper Canada Consultants dated October 2020 and staff generally agrees with the report's commentary.

Planning staff understand the proposal to be an ideal application of current planning and development goals outlined by upper levels of government and local Town policies dealing with appropriate intensification, redevelopment and land use diversification. The proposal will add housing supply to Downtown Fonthill, enhance the streetscape, and increase the property's value and thus, tax productivity while making more efficient use of an existing lot on a fully serviced public street.

Planning Staff is of the opinion that the application meets the four minor variance tests laid out by the Planning Act. The subject application is consistent with Provincial policies, the Regional Official Plan, and complies with the general intent of the Pelham Official Plan and Zoning By-law.

The authorization of the minor variance is not expected to generate negative impacts on adjacent uses and is expected to make positive contributions to the community at large. Given this analysis, Planning staff recommend that minor variance file A28/2020P **be approved** subject to the following conditions:

THAT the applicant

- Provide revised drawings for the Site Plan Agreement to the satisfaction of the Direction of Community Planning and Development.
- At the time of building permit, the filing of a Record of Site Condition to the satisfaction of the Chief Building Official.

Prepared by,



Shannon Larocque, MCIP, RPP
Senior Planner

Approved by,



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

Memorandum

Public Works Department - Engineering

DATE: November 19, 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 A28/2020P
1 Highway 20 west

Public Works has completed a review of the minor variance application A28/2020P for relief of Pelham Zoning By-Law 1136(1987), as amended. The application is made to seek relief from the following:

- Section 6.16 (d) (i) Ingress and Egress – Minimum 2-way Drive Aisle Width – to permit a drive aisle of 6.25 meters for two-way traffic whereas the by-law requires a 7.5 meter drive aisle for two-way traffic;
- Section 19.3 (a) Maximum (Residential) Gross Floor Area – to permit not more than 80% of the gross floor area whereas the by-law allows for not more than 50% gross floor area and whereas the property received a minor variance approval to allow not more than 75%;
- Section 19.3 (b) and 20.1 (c) Dwelling Unit to the Rear of Ground Floor Behind Commercial – to permit a dwelling unit behind a commercial use whereas the by-law requires a dwelling unit shall only be permitted above the ground floor of any commercial use;
- Section 20.2 (c) Maximum Lot Coverage – to permit a maximum Lot Coverage of 48% whereas the by-law allows for 40% and whereas the property received a minor variance approval to allow 42%

Public Works has no comments.

To: Holly Willford

Cc: Curtis Thompson, Sarah Leach

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

Date: November 20th, 2020

Subject: Building Comments on Applications to the Committee of Adjustment for
Consents/Minor Variances – December 1st, 2020 Hearing

Comment for Re: File # 28/2020P 1 Highway 20 West

The building department offers the following comment,

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

Comment for Re: File B11/2020P

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

November 17, 2020

File No.: D.17.06.MV-20-0045

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: Provincial and Regional Comments
Minor Variance Application
Town File Nos.: A28/2020P
Owner: [REDACTED]
Agent: Upper Canada Consultants (Craig Rohe)
Address: 1 Highway 20 West, Pelham
Legal Description: Lots 53 and 54, Part of Lot 55 on Plan 717 and Part of
Lot 1, Concession 7, Town of Pelham**

Regional Planning and Development Services staff have reviewed the information circulated for the above-noted minor variance application, which has been proposed to facilitate the construction of a residential apartment unit on the ground floor of a proposed 3-storey, mixed-use building. The applicant is seeking variances to permit a dwelling unit to be located on the ground floor behind a commercial use, a reduction in the minimum drive aisle width for a parking lot, and an increase in maximum residential gross floor area and maximum lot coverage.

The proposed 3-storey mixed-use building was subject to a previous site plan application, which Regional staff commented on by letter dated May 30, 2019, July 25, 2019, and August 14, 2019. The owner is proposing to revise the approved site plan to accommodate an additional residential unit on the ground floor at the rear of the building, resulting in modifications to the proposed parking lot configuration and architectural design of the building. A preconsultation meeting for the minor variance application was held on September 17, 2020, with staff from the Town and Region, as well as the Agent and Owner in attendance.

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

Provincial and Regional Policy

The subject lands are located within a Settlement Area under the Provincial Policy Statement (PPS), designated Delineated Built-Up Area under the Growth Plan for the Greater Golden Horseshoe (Growth Plan) and designated Urban Area (Built-Up Area) in the Regional Official Plan (ROP).

The PPS and Growth Plan direct growth to Settlement Areas and the Delineated Built-Up Area to efficiently use existing servicing, infrastructure, and public service facilities. An emphasis is placed on intensification and infill to foster the development of complete communities that have a mix of diverse land uses, and a range of housing options for the current and future population. 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. The policies of the ROP promote higher density development in Urban Areas, supporting growth that contributes to the overall goal of providing a sufficient supply of housing that is affordable, accessible, and suited to the needs of a variety of households and income groups in Niagara.

The proposal is considered infill development, and will result in residential intensification within the Built-Up Area, which will make more efficient use of designated urban land and existing infrastructure and contribute toward the Town achieving its annual 15% residential intensification target, as established by the ROP. The proposed minor variance application, which will facilitate the construction of an additional residential apartment unit on the ground floor of the proposed 3-storey mixed use building, will also provide an alternative form of housing, offering a range of options in the neighbourhood to meet the needs of a variety of households, populations and income groups. The proposed minor variance is therefore consistent with Provincial and Regional policies for the provision of a range of housing types and densities within the Built-Up Area.

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. Based on Provincial screening criteria, the subject lands exhibit high potential for discovery of archeological resources due to their proximity (within 300 m) to a registered archeological site and a watercourse.

The area of the proposed development has been subject to recent, intensive and extensive ground disturbance, as defined by the Province. Therefore, any

archaeological potential is now void. On this basis, Regional staff can waive the requirement for an archaeological assessment.

It is Regional staff's understanding that the development agreement for the previous site plan application contains standard warning clauses regarding the potential for the discovery of deeply buried archeological remains/resources during construction and grading activities. Recognizing that no archaeological screening or survey, regardless of its intensity, can entirely negate the possibility of deeply buried archaeological materials, Regional staff recommend that these standard warning clauses be carried over into any subsequent development agreements on the subject lands to ensure any archeological resources that may be encountered are appropriately conserved.

Record of Site Condition

Aerial photography and Municipal Property Assessment Corporation (MPAC) data indicate that portions of the subject property were last used for commercial purposes. In accordance with O. Reg. 153/04, a Record of Site Condition (RSC) must be filed on the Ministry of Environment and Climate Change's (MOECC) Brownfields Environmental Site Registry prior to any change in land use to a more sensitive use (i.e. commercial to residential).

During the review of the previous Planning Act applications, the proposed development fell within the exemption provisions (Section 15) of the *Environmental Protection Act* (EPA) and Regional staff waived the requirement for an RSC. However, since this time, the EPA, including Section 15, has been amended by O. Reg 407/19. The exemption criteria is now more explicit, and states that an RSC is not required where a change in use meets all of the following criteria:

- i. Before the change, the property is used for a commercial or community use.
- ii. After the change, the property will be used,
 - a. for a commercial or community use as well as for a residential use,
 - b. for a commercial or community use as well as for an institutional use, or
 - c. for a commercial or community use as well as for both a residential use and an institutional use.
- iii. The change to residential use or institutional use is restricted to floors above the ground floor.
- iv. The building has no more than six storeys before the change and will have no more than six storeys after the change.
- v. The existing building envelope is to remain unchanged and there will be no addition to the exterior portions of the building.
- vi. The property on which the building is located is not used or has not ever been used, in whole or in part, for an industrial use, as a garage, as a bulk liquid dispensing facility, including a gasoline outlet, or for the operation of dry cleaning equipment.

The proposed apartment unit on the ground floor does not comply with criterion iii) above, and therefore the filing of an RSC is now required under the EPA. Regional staff

note that the EPA is considered applicable law under the *Ontario Building Code*, and therefore the requirement for an RSC can be addressed prior to the issuance of a building permit.

Noise

The subject lands have frontage on Regional Road 20 (Highway 20). The PPS requires that major facilities (including transportation infrastructure and corridors) and sensitive land uses (i.e. residential) be planned to “ensure they are appropriately designed, buffered and/or separated from each other to prevent or mitigate adverse effects from odour, noise and other contaminants, minimize risk to public health and safety...”. Further, the Regional Road Traffic Noise Control Policy (PW5.NO1.0) requires that all development applications for sensitive uses along existing Regional Roads be considered for noise abatement features.

Typically, Regional staff would require that a noise study, prepared in accordance with the Ministry of Environment, Conservation and Parks (MECP) Noise Guidelines (NPC-300) and the Regional Road Noise Control Policy, be submitted to evaluate the impact of the Regional Road noise traffic. However, this requirement was waived by Regional staff as part of the previous applications on the subject lands, provided no balconies were proposed on the front façade. As the revised concept plan does not include balconies on the front façade, a noise study is not required in support of the current application.

Regional Development Charge Reduction Programs

The property is located within a Designated Exemption Area under Schedule E of the Regional Development Charge (RDC) By-law 98-2017, and is eligible for the Region’s Smart Growth Development Charge (DC) Reduction Program. The project may be eligible for a rebate of up to 50% of the RDCs paid, subject to meeting the requisite number of Smart Growth Design Criteria, under this program. More information can be found at <https://www.niagararegion.ca/business/property/reductions.aspx>.

The property may also be eligible for RDC rebates under the Region’s Brownfield Development Reduction Charge Program. In order to qualify for this program, the property must meet the definition of “Brownfield” development, as defined by the RDC By-law, including:

- The property was previously used for agricultural, industrial, institutional, or commercial or open lands or other use as prescribed under the *Environmental Protection Act*, R.S.O. 1990, c.E.19 and Ontario Regulation 153/04 (i.e. “brownfields” regulation), as amended by Ontario Regulation 407/19;
- Site remediation is required in accordance with a Phase 2 Environmental Site Assessment (ESA); and,
- A Record of Site Condition (RSC) has been filed on the Province’s Brownfields Environmental Site Registry (BESR).

November 17, 2020

If eligible for this rebate, up to 100% of the RDCs payable, but not exceeding the total eligible cost of remediation subject to the terms of Schedule D of the RDC By-law, may be available. Pursuant to Schedule D of the RDC By-law, applications for the Brownfield Development Reduction Charge Program must be made within 12 months of the commencement of remediation. More information can be found at <https://www.niagararegion.ca/business/property/brownfields-redevelopment-program.aspx>.

A copy of the Regional Development Charge By-law, including the schedules and definition of a brownfield, can be found at <https://www.niagararegion.ca/business/property/default.aspx>.

The Region is currently in the process of a review of all Regional incentive programs, which may result in changes to the current incentive programs. Also please note that By-law 2017-98 will expire on August 31, 2022. In advance of that date, the Region will be initiating a review of the By-law and preparation of a background study in support of Council's adoption of a new DC By-law prior to the By-law's expiry.

Conclusion

In conclusion, Regional staff have no objection to this minor variance application from a Provincial or Regional perspective, subject to the satisfaction of any local requirements. Regional staff note that the requirement for the filing of a Record of Site Condition (RSC) should be addressed prior to issuance of a building permit.

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.

Kind regards,



Amy Shanks
Development Planner

cc: Britney Fricke, Senior Development Planner, Niagara Region
Curtis Thompson, Planner, Town of Pelham

December 1, 2020

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

Re: Consent Application B11-2020P
282 Canboro Road, Pelham
Concession 8, Part of Lot 5, RP 59R-4807, Part 1
Roll No. 2732 020 010 14600

The subject parcel, shown as Part 3 on the attached sketch, is an interior parcel of land situated 26.21 m south of Canboro Road, lying east of Effingham Street, legally described above, in the Town of Pelham.

Application is made for consent to convey 1,034 m² of land (Part 3) to merge with the abutting property to the west (286 Canboro Road) for continued use of the existing single detached residential dwelling. 4,055 m² of land (Part 1) will be retained for continued use of the single detached residential dwelling known locally as 282 Canboro Road.

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 sever the northwestern section of the 'U-shaped' subject lands (282 Canboro Road) to merge with the abutting lands to the west (286 Canboro Road).

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’. ‘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.

Greenbelt Plan (2017)

The Greenbelt Plan designates the intersection of Effingham Street and Canboro Road as a ‘*Hamlet*’. Hamlets are also included within the definition for ‘*Settlement Areas*’ and are located within the Protected Countryside. However, the Ridgville hamlet designation is symbolized only as ‘dot’ on Schedules 1 – 2 of this Plan, lacking a fixed boundary. The Upper Tier municipalities are responsible for approving *settlement area* boundaries. The Region is currently updating their Official Plan and will be approving a delineated boundary for the Village of Ridgville. Town Planning staff are confident the subject parcels will be included within this forthcoming hamlet boundary as they currently maintain a rural-commercial zoning.

Policy 1.4.2 states that the policies of this Plan generally do not apply to Towns/Villages and Hamlets. Official Plans will continue to govern their land use based on policy direction of the Growth Plan.

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 *critical fish habitat* will not be fragmented by the reconfigured lot line.

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 ‘Prime Agricultural Area’, which is outside of an approved *settlement area*

according to the Growth Plan. Therefore, the natural heritage system policies of the Growth Plan apply (policy 4.2.2).

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 lot line does not fragment any *key natural heritage features* or *key hydrologic features*. In fact, the proposed reconfigured lot line actually distances itself from the regulated watercourse which has been mapped as a critical fish habitat.

Regional Official Plan (Consolidated August 2014)

The Regional Official Plan designates the subject land as ‘Unique Agricultural Area’ and ‘Greenbelt Natural Heritage System’.

Policy 5.B.8 (Unique Agricultural Areas Consents) restricts lot creation to maintain and protect agricultural resources of the Town, as well as prohibit further fragmentation of *key natural heritage features* or *key hydrological features*.

Regional staff are satisfied the proposed lots meet the 0.4 hectare size requirement for private sewage system purposes and avoid any fragmentation of *key natural heritage features* and meet the 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 subject land as ‘Specialty Agricultural’ with a ‘Greenbelt Natural Heritage Overlay’ on Part 3 and most of Part 2 according to Schedule ‘A’.

Policy B2.2.5 restricts lot creation to maintain and protect agricultural resources of the Town, as well as prohibit further fragmentation of *key natural heritage features* or *key hydrological features*.

The proposed severance does not create any new lots within the *Specialty Agricultural* designation nor fragment any natural heritage features.

Any future commercial-rural zoned development on any of the subject properties will be subject to Site Plan Approval and require a Site Plan Agreement with the Town in accordance with the Site Plan Control By-law.

Policy D5.2.2 states that the conveyance of a boundary adjustment for the purpose of enlarging an existing lot

that does not provide a new building lot, may be permitted. The Committee of Adjustment shall be satisfied that the boundary adjustment will not affect the viability of the use of the properties affected as intended by this Plan.

The proposed severance would facilitate a boundary adjustment between two commercial rural zoned properties, which each both support a single detached residential dwelling. No new building lots would result from this boundary adjustment.

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

The subject land is currently zoned 'Commercial Rural' (CR) according to the Zoning By-law 1136(1987). The existing residential dwelling at 286 Canboro Road is considered *legal non-conforming* as it pre-dates the establishment of municipal zoning on the lands and is circa 1949. The building permit for the dwelling at 282 Canboro was issued prior to Zoning By-law 1136(1987).

Part 1 will continue to comply with the Zoning By-law with respect to the zone standards following the parcel reconfiguration. The minimum lot frontage is existing *legal non-complying* and the minimum lot area will exceed the 0.4 hectare requirement. There are no building setback implications for the existing dwelling, but Town Planning staff cannot confirm the same for the accessory building(s) to the west as they are missing on the Consent Sketch. Therefore, a condition of approval has been outlined to satisfy any potential zoning issues.

Parts 2 – 3 will continue to meet the applicable performance standards (minimum lot frontage / lot area), as well as not implicate the existing *legal non-conforming* single detached residential dwelling. The deficient lot frontage is similarly a *legal non-complying* situation pursuant to section 6.15 (e) of the By-law.

Any future development on either parts 1 or 2 will continue to need to comply with their respect zoning regulations and permitted uses.

Agency & Public Comments

On November 2, 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 (November 17, 2020)
 - Any works or site alteration within 15 m of the regulated watercourse traversing 286 Canboro Road will require NPCA approval.
 - No objections.
- Niagara Region Planning & Development Services (November 17, 2020)
 - Merging Part 3 with Part 2 will benefit the ability for the existing dwelling at 286 Canboro Road in the event the septic system needs to be replaced as the site is impacted by an NPCA regulated watercourse which restricts the development of a new septic system.

- Archaeological assessment will be required upon future development or site alteration requiring *Planning Act* approval.
 - No objections subject to Part 2 merging in title with Part 3.
- Building Department (November 20, 2020)
 - No comments.
- Public Works Department (November 19, 2020)
 - See conditions.
- Hydro One (November 7, 2020)
 - No concerns.
- Bell Canada (November 12, 2020)
 - No concerns.

Public comments were received from two neighbouring property owners, which are included on the Committee's Agenda and summarized below:

- Concern that the future use of the property will be commercial.
 - The subject properties are all zoned 'CR' (Commercial Rural) which permit a variety of commercial uses and accessory residential uses.

Planning Staff Comments

The proposed boundary adjustment seeks to sever the northwestern section of the 'U-shaped' subject lands (282 Canboro Road) to merge with the abutting lands to the west (286 Canboro Road).

A pre-consultation meeting was held with the applicant(s) of the property and staff from the Town and Niagara Region Planning & Development Services on September 3, 2020 to discuss the subject application.

The subject lands are located on the south side of Canboro Road, lying east of Effingham Street. The property is surrounded by:

- North → Rural residential dwellings
- East → Auto, truck and industrial repair shop / rural residential dwelling
- South → Agricultural / rural residential dwellings
- West → Bulk water filling station

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, submitted with the application.

Planning staff is of the opinion that the proposal will improve the awkward existing lot geometry and parcel fabric by creating a more usable parcel of land at 286 Canboro Road either for the continued use of the *legal non-conforming* single detached dwelling, or for some alternative future use, should one be proposed. The remnant lands will also continue to comply with the minimum zoning standards and minimum size requirements for a private septic system.

Furthermore, the proposed consent avoids fragmenting any *key natural heritage features* by ensuring those ecologically sensitive features remain wholly intact by the lotting fabric.

It is noted that based on the information provided with the application, no change in use is proposed for either 282 or 286 Canboro Road and the application states that the proposed use is to remain as residential. If there is any future proposal for commercial or mixed-use commercial-residential development on either 282 Canboro Road or 286 Canboro Road by the current owner or future owner of either property, it will be subject to future *Planning Act* approvals such as a Site Plan Control application, at a minimum, pursuant to the Town's Site Plan Control By-law. However, at this time, it is noted that no change in land use is proposed.

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 B11-2020P **be approved** subject to the following conditions:

THAT the applicant

- Merge Part 3 with Part 2 (286 Canboro Road).
- Provide a revised Consent Sketch illustrating all existing accessory structures, regardless of whether they are proposed to remain or be removed. If zoning compliance cannot be demonstrated, the Applicant shall either obtain and close Demolition Permit(s), as applicable for their removal, or obtain subsequent zoning approval for their continued existence, to the satisfaction of the Director of Community Planning & Development.
- Submit a comprehensive overall Lot Grading & Drainage Plan for all 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.
- 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: November 19, 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 B11/2020P
282 Canboro Road

We have completed the review of the consent application B11/2020P for consent to partial discharge mortgage and to convey 1034 square meters of land (Part 3), to be added to the abutting property to the west, for continued residential use. Part 1 is to be retained for continued residential use of the dwelling known municipally as 282 Canboro Road.

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.

To: Holly Willford

Cc: Curtis Thompson, Sarah Leach

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

Date: November 20th, 2020

Subject: Building Comments on Applications to the Committee of Adjustment for
Consents/Minor Variances – December 1st, 2020 Hearing

Comment for Re: File # 28/2020P 1 Highway 20 West

The building department offers the following comment,

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

Comment for Re: File B11/2020P

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

November 17, 2020

File No.: D.06.06.CS-20-0052

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: Provincial and Regional Comments
Consent Application
Town File No.: B11/2020P
Owner: [REDACTED]
Agent: Upper Canada Consultants (Ethan Laman)
Address: 282 Canboro Road, Pelham
Legal Description: Part of Lot 5, Concession 8, Town of Pelham

Regional Planning and Development Services staff have reviewed the above-noted consent application, which proposes to convey 1,034 square metres of land (Part 3), to be added to the abutting property to the west (Part 2), for continued residential use. Part 1 is to be retained for continued residential use.

A preconsultation meeting for the proposed consent application was held on September 3, 2020, with staff from the Town and Region, as well as the Agent and Owner in attendance.

The following 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 the subject lands as a Prime Agricultural Area, and more specifically as a Specialty Crop Area. 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, and are identified as

being within the Specialty Crop Area – Niagara Peninsula Tender Fruit and Grape Area designation. The Regional Official Plan (ROP) identifies the subject lands as being outside the Urban Area Boundary for the Town of Pelham, and designates these lands as Unique Agricultural Area. Similar to the policies of the PPS, both the Greenbelt Plan and the ROP emphasize the protection of these lands 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 minor 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.

The application proposes a boundary adjustment to sever Part 3 from Part 1, and merge it with Part 2. Regional staff note that this boundary adjustment will not create a separate lot provided the consent is conditional on the merger of Parts 3 and 2, or fragment a key natural heritage or key hydrologic feature, as discussed further below. Therefore, the proposed consent application conforms to Provincial and Regional policies for lot boundary adjustments in agricultural areas.

Core Natural Heritage

The subject properties are impacted by the Region's Core Natural Heritage System (CNHS), consisting of Type 2 (Important) Fish Habitat along the northwest corner of the properties (see attached map). The southeast portion of the properties are within the Natural Heritage System of the Greenbelt Plan. Consistent with ROP Policy 7.B.1.15, an Environmental Impact Study (EIS) is required in support of any site alteration and/or development proposed within 15 m of Type 2 Fish Habitat.

The proposed boundary adjustment is greater than 15 m from the watercourse containing Type 2 Fish Habitat. As such, no studies are required and there are no further environmental comments.

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 due to the presence of a watercourse on the property. 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 however that any future development and site alteration on the subject lands requiring *Planning Act* approval will require the completion of an archaeological assessment.

Private Septic System

Regional Private Sewage Systems (PSS) staff have reviewed the application. According to Regional records, the sewage system servicing the dwelling at 282 Canboro Road (Part 1) was installed in 1986, with approval from the Niagara Region Health Services Department. The septic system is located north of the dwelling along the east property line. Soil was disturbed around the tanks at the time of PSS staff’s inspection; however, no visual defects were observed. No records were found for the existing legal non-conforming sewage system servicing the dwelling at 286 Canboro Road. At the time of PSS staff’s inspection, no visual defects were observed.

The proposed consent will not adversely affect the existing sewage system on Part 1 (282 Canboro Road). It should be noted that Part 1 currently supports a residential dwelling and two detached accessory structures. There appears to be usable area at the northwest corner of the property for any future septic system repair or replacement that may be required in the future.

The proposed consent will also not adversely affect the existing sewage system on Part 2 (286 Canboro Road). It should be noted that Part 2 currently supports a small residential dwelling. The addition of Part 3 is beneficial to the property as it provides usable land for any future septic system repair/replacement that may be required for the existing dwelling in the future. However, the replacement system may require tertiary treatment, as the property is uniquely shaped and impacted by environmental features.

Therefore, provided no changes are proposed for either dwelling, PSS staff have no objection to the 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. Subject to the merger, the proposal is consistent with the PPS, and conforms with Provincial Plans and the Regional Official Plan from a Provincial and Regional perspective.

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

November 17, 2020

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.

Kind regards,



Amy Shanks
Development Planner

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

Appendix: Core Natural Heritage Features Map

Appendix - Core Natural Heritage Features Map



November 17, 2020

Our File No.: PLCON202001242

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, (B11/2020P)
282 CANBORO RD
ARN 273202001014600

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

Application **B11/2020P** is made for consent to convey 1,034 square metres of land (Part 3), to be added to the abutting property to the west for continued residential use. Part 1 is to be retained for continued residential use of the dwelling known municipally as 282 Canboro Road.

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 NPCA notes that the property known municipally as 286 Canboro Road (Part 2 on the subject application), features an NPCA regulated watercourse, and that no development is to be permitted within 15 metres from top-of-bank of this watercourse without review and approval from this office.

Conclusion

The NPCA has no objections at this time to the proposed Consent Application **B11/2020P**. Any proposed site alterations within 15 metres of the regulated watercourse at 286 Canboro Road will require review and approval from our office.

Yours truly,



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

From: Sarah Leach
To: Holly Wilford; Curtis Thompson
Subject: FW: Pelham - CANBORO RD & EFFINGHAM ST - B11-2020P
Date: Monday, November 9, 2020 8:26:24 AM
Attachments: image003.png



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

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From: Dolly.Shetty@HydroOne.com <Dolly.Shetty@HydroOne.com> **On Behalf Of** LandUsePlanning@HydroOne.com
Sent: Saturday, November 7, 2020 10:58 AM
To: Sarah Leach <SLeach@pelham.ca>
Subject: Pelham - CANBORO RD & EFFINGHAM ST - B11-2020P

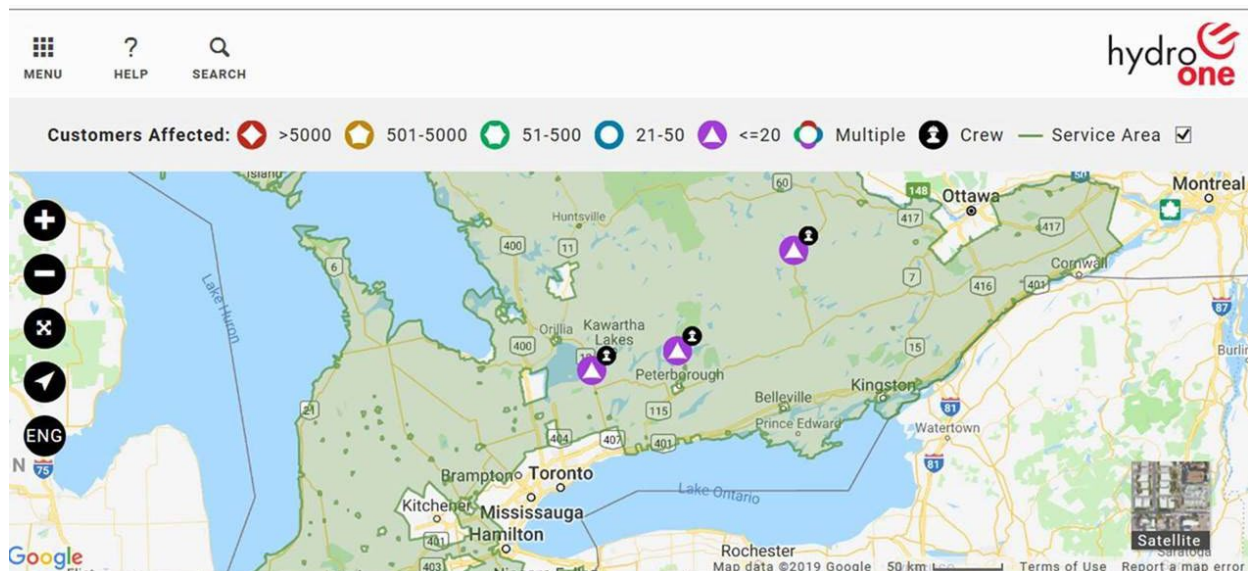
Hello,

We are in receipt of Application B11-2020P dated November 2, 2020. We have reviewed the documents concerning the noted Plan and have no comments or concerns at this time. [Our preliminary review considers issues affecting Hydro One's 'High Voltage Facilities and Corridor Lands' only.](#)

For proposals affecting 'Low Voltage Distribution Facilities' please consult your local area Distribution Supplier.

To confirm if Hydro One is your local distributor please follow the following link:
<http://www.hydroone.com/StormCenter3/>

Please select "Search" and locate address in question by entering the address or by zooming in and out of the map



If Hydro One is your local area Distribution Supplier, please contact Customer Service at 1-888-664-9376 or e-mail CustomerCommunications@HydroOne.com to be connected to your Local Operations Centre

Thank you,

Best Wishes,

Dolly Shetty
Real Estate Assistant | Land Use Planning

Hydro One Networks Inc.
185 Clegg Road (R32)
Markham, ON | L6G 1B7
Email: Dolly.Shetty@HydroOne.com



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From: Sarah Leach <SLeach@pelham.ca>
Sent: Monday, November 2, 2020 10:47 AM
To: LANDUSEPLANNING <LandUsePlanning@HydroOne.com>; rowcentre@bell.ca

Subject: Committee of Adjustment Notice of Hearing - December 1, 2020 2 of 2

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Good afternoon,

Attached, please find the notice of hearing for file(s)

- A28/2020P & Planning Justification Report
- B11/2020P & Consent Brief

Thank you,
Sarah



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

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Sarah Leach

From: Gordon, Carrie <carrie.gordon@bell.ca>
Sent: Thursday, November 12, 2020 9:09 AM
To: Sarah Leach
Subject: RE: Committee of Adjustment Notice of Hearing - December 1, 2020 2 of 2 - 905-20-303

Hi Sarah,

Re: Conveyance application B11/2020P

Subsequent to review of the conveyance at 282 Canboro Rd, Bell Canada's engineering department have determined that there are no concerns or issues with the proposed application.

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

Best regards,

Carrie Gordon



External Liaison – Right of Way Control Centre
140 Bayfield St, Fl 2
Barrie ON, L4M 3B1
T: 705-722-2244/844-857-7942
F :705-726-4600

From: Sarah Leach <SLeach@pelham.ca>
Sent: Monday, November 2, 2020 10:47 AM
To: landuseplanning@hydroone.com; ROWCC <rowcentre@bell.ca>
Subject: [EXT]Committee of Adjustment Notice of Hearing - December 1, 2020 2 of 2

Good afternoon,

Attached, please find the notice of hearing for file(s)

- A28/2020P & Planning Justification Report
- B11/2020P & Consent Brief

Thank you,
Sarah



Sarah Leach, BA.

Administrative Assistant to the Clerk

Town of Pelham

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

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

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External Email: Please use caution when opening links and attachments / Courriel externe: Soyez prudent avec les liens et documents joints

Sarah Leach

From: Nancy Bozzato
Sent: Thursday, November 19, 2020 12:48 PM
To: Holly Willford; Sarah Leach; Curtis Thompson
Subject: FW: Comments for Secretary Treasurer of the committee of adjustment

From: Beverly Sneath <[REDACTED]>
Sent: Thursday, November 19, 2020 12:42 PM
To: Nancy Bozzato <NBozzato@pelham.ca>
Subject: Comments for Secretary Treasurer of the committee of adjustment

Please forward to:

To Secretary Treasurer of the Committee of Adjustments:

Regarding File B11/2020P and meeting Dec 1st 2020

Due to my work schedule my husband Jim and I will not be able to attend the Zoom meeting regarding the application for consent to convey a section of Part 3 (Lot 5 Concession 8) to be added to the property abutting to the west.

We have some concern about the intended future use of the land and the section of land it will be attached to if approved and if it will be built on for other than residential.

We have continued to keep the grass cut to reduce weeds and ticks along the edge of the land at 282 Canboro adjacent to and to the north of our property for 35 years.

We would also like to request a copy of the decision of the Committee of Adjustment and/or notices of adjournment.

Beverly Sneath
[REDACTED]

From: [SHAWN REEVES](#)
To: [Holly Willford](#)
Subject: B11/2020P
Date: Tuesday, November 17, 2020 2:47:46 PM

Hi Holly,

Thank you for taking the time to discuss the Canboro properties with me today. I have some serious concerns over the intent of this severance. The application states it is for continued residential use but I have information that the ultimate intent is actually for future commercial consideration. Considering that these properties are zoned Commercial/Residential, this is a very real possibility. When I purchased my property in 2015 I was told it was zoned as such but that I could not use the property for commercial purposes because I did not have 90' frontage. Considering this, I was comfortable that the neighboring properties at 282 and 286 Canboro could not either, as both those properties did not have 90' of frontage. I have since learned that the owner of 286 Canboro, Mr. Frank Serravalle, purchased the property next to 286 Canboro, from the town in 2017, and consolidated the 2 properties. I was not made aware of this transaction until today. This current request for severance of a parcel from 282 Canboro to be consolidated with 286 would allow for a large parcel ideal for commercial use. This would greatly affect the desirability and value of my property which would put me at an unfair disadvantage. A commercial facility would impact the comfort of living in the home by potentially increasing both noise and light pollution and this would have an impact on future resale or rental income. Unless there are assurances that this transaction would indefinitely confirm continued residential use, On behalf of Reevesco Holdings Inc. I would like to state my opposition and be allowed to voice my concerns at the hearing. I would be satisfied with this request should an amendment be added that the zoning be changed from Commercial/Residential to residential. This would satisfy the intent listed in the application as well as allow me reassurance that this property will not be used for commercial applications in the future.

Sincerely,

Shawn Reeves
President, Reevesco Holdings Inc.

Committee of Adjustment**Minutes**

Meeting #: CofA 9/2020
Date: Tuesday, September 1, 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

Members Absent Bill Sheldon
Bernie Law

Staff Present Nancy Bozzato
Holly Willford
Sarah Leach

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 called for a moment of silence in memory of Committee of Adjustment member and vice chair Bill Sheldon.

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

Ms. Willford, Assistant Secretary Treasurer to the Committee of Adjustment advised the Chair the applicant for application A6/2020P – 257 Chantler Road has requested an adjournment, sin dine in order to work with the Niagara Region and Town Planning Staff to hopefully receive supportive comments.

Ms. Willford suggested to the Chair that perhaps the Committee hear the minor variance application (A24/2020P) after the consent (B6/2020P) application. The Chair agreed.

Moved By Sandra Marsh

Seconded By John Klassen

THAT application A6/2020P – 257 Chantler Road be adjourned sin dine.

Carried

5. Applications for Minor Variance

5.1 A6/2020P - 257 Chantler Road

Application was adjourned.

5.2 A22/2020P - 9 John Street

Purpose of Application

Application for relief of Section 13.2 (c) “Maximum Lot Coverage” to permit a maximum lot coverage of 32.04% whereas the by-law permits 30% and Section 13.2 (f) “Minimum Exterior Side Yard” to permit a minimum exterior side yard of 3.06m whereas the by-law requires 5m.

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. Upper Canada Consultants Presentation

5. Michael and Marion Whittaker Comments

Applicant's Comments

The Agent provided a brief presentation overviewing the application. A copy is on file with the Clerk.

Public Comments

Mr. Michael Whittaker indicated he is concerned Fonthill has already lost a lot of trees and he stated we must protect the trees we have. Mr. Whittaker indicated he is concerned the tulip tree on the property, which is over 100 feet tall will be taken down. He indicated he sees red marks on the tree. The Chair asked the Agent to respond. In response, the Agent indicated the tree is not being removed rather the markings are for elevation. Mr. Whittaker was pleased with the response.

Ms. Holly Willford, Assistant Secretary Treasurer checked the clerks@pelham.ca email address at 4:29 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 indicated he was happy the tree was staying.

Moved By John Klassen

Seconded By Sandra Marsh

Application for relief of Application for relief of Section 13.2 (c) “Maximum Lot Coverage” to permit a maximum lot coverage of 32.04% whereas the by-law permits 30% and Section 13.2 (f) “Minimum Exterior Side Yard” to permit a minimum exterior side yard of 3.06m whereas the by-law requires 5m, is hereby: GRANTED.

The above decision is based on the following reasons:

- 1. The variance is minor in nature and will allow more design flexibility for a larger building footprint and will allow a desirable rear yard landscaped amenity area to be maintained.**
- 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 they will allow more design flexibility for the future residential dwelling with a larger ground floor area but also maintain a large rear yard amenity area.**
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 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.**

Prior to the issuance of the Building Permit:

2. **To the satisfaction of the Director of Community Development and Planning that:**
 1. **Provide an east (exterior side) Elevation Plan that positively contributes to the public street through the use of a front porch, windows symmetrically proportionate to the building's mass, and a congruent use of exterior cladding etc.**

Carried

5.3 A24/2020P - Northeast Corner of Poth Street and Webber Road

Heard concurrently with application B6/2020P.

6. Applications for Consent

6.1 B5/2020P - 1427 Station Street

Purpose of Application

Application for consent to partial discharge of mortgage and consent to convey 2,824 square metres of land (Part 2), to be added to the abutting

property to the south, for future development. Part 1 is to be retained for continued residential use of the dwelling known municipally as 1427 Station Street.

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

Applicant's Comments

The Agent indicated he is working on a land assembly for a future plan of subdivision. The Agent indicated there is a drainage plan for the whole area.

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 4:41 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 there was a timeline for when the plan of subdivision would be ready and if he believes there will be drainage issues. In response, the Agent indicated he is unsure of when the draft plan of subdivision will be ready and there are no foreseeable issues with drainage.

Another Member indicated the Committee has granted other consents for this land assembly and indicated there is no reason to change their minds now.

Moved By Sandra Marsh

Seconded By John Klassen

Application is made for consent to partial discharge of mortgage and consent to convey 2,824 square metres of land (Part 2), to be added to the abutting property to the south, for future development. Part 1

is to be retained for continued residential use of the dwelling known municipally as 1427 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 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 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 B6/2020P - Northeast Corner of Poth Street and Webber Road

Purpose of Application

Application for consent to convey 3.98 hectares of land (Part 1) for a future agricultural or residential use. Part 2 is to be retained.

Representation

The Applicants and 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 Agent indicated she had no further comments and supports the conditions requested.

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 4:56 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

Two Members asked for confirmation that the subject lands have two different zonings. In response, the Agent confirmed that was correct.

A Member asked for more information regarding why the property has two different zonings. In response, Mr. Thompson indicated zoning does not follow lot boundaries rather, zoning is in directed relation to the Official Plan and that the property does have two different zonings.

A Member asked if an archeological assessment will be required at site plan stage of the development. In response, Mr. Thompson indicated that was correct.

The Members considered A24/2020P and B6/2020P concurrently.

Moved By John Klassen

Seconded By Sandra Marsh

Application is made for consent to convey 3.98 hectares of land (Part 1) for a future agricultural or residential use. Part 2 is to be retained, 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, to the satisfaction of the Director of Public Works, or designate.**
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.**

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

Moved By John Klassen

Seconded By Sandra Marsh

Application for relief of Application for relief of Section 7.2 (a) “Minimum Lot Frontage” – to permit a minimum lot frontage of 150.43m whereas the by-law requires 180m and Section 7.2 (b) “Minimum Lot Area” – to permit a minimum lot area of 3.98ha whereas the by-law requires 10ha, is hereby: GRANTED.

The above decision is based on the following reasons:

1. The variance is minor in nature given the proposed lot size is capable of supporting a variety of permitted uses without causing adverse impacts to the neighbourhood.
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 the full range of permitted agricultural uses to continue to be available in the future despite being on a smaller parcel of land.
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 the approval of the minor variance is subject to Consent File B6/2020P obtaining final approval.

Carried

7. Minutes for Approval

Moved By Sandra Marsh

Seconded By John Klassen

That the minutes of the February 4, 2020, Committee of Adjustment Hearing be approved.

Carried

Moved By Sandra Marsh
Seconded By John Klassen

That the minutes of the February 20, 2020, Committee of Adjustment Hearing be approved.

Carried

Moved By John Klassen
Seconded By Sandra Marsh

That the minutes of the June 30, 2020, Committee of Adjustment Hearing be approved.

Carried

8. Adjournment

Moved By Sandra Marsh
Seconded By John Klassen

BE IT RESOLVED THAT this Meeting of the Committee of Adjustment Hearing be adjourned until the next regular meeting scheduled for October 6, 2020 at 4:00 pm.

Carried

Don Cook, Chair

Secretary-Treasurer, Nancy J. Bozzato

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 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 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 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 6th 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 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.**

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

Don Cook, Chair

Secretary-Treasurer, Nancy J. Bozzato