

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 Chantel 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 Chantel 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

