

January 12, 2021

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

**Re: Minor Variance Application A1-2021P**  
**1150 Line Avenue, Pelham**  
Part of Township Lot 177  
**Roll No. 2732 030 019 01600**

---

The subject parcel, shown as Part 3 on the attached sketch, is located on the west side of Line Avenue, lying north of Bacon Lane, legally described above, in the Town of Pelham.

The subject land is zoned 'Residential 1' (R1) in accordance with Pelham Zoning By-law No. 2236 (1987), as amended. The minor variance application seeks relief from:

- i. **Section 13.2 (b) "Minimum Lot Frontage"** to permit a lot frontage of 9.75 m, whereas 19 m is required.

Note: This application is being considered as a result of a condition of approval for the severance file B8-2020P which was conditionally approved by the Committee of Adjustment on October 6, 2020.

### **Applicable Planning Policies**

#### Planning Act (Consolidated July 2016)

Section 45 (1) states that the Committee of Adjustment may authorize minor variance provisions of the (Zoning) by-law, in respect of the land, as in its opinion is (1) minor in nature, (2) objectively desirable for the appropriate development or use of the land, and the general intent and purpose of the (3) Zoning By-law and (4) Official Plan are maintained.

#### 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 1.1.3.3 states municipalities shall identify appropriate locations and promote opportunities for intensifications where this can be accommodated taking into account existing building stock and the availability of suitable existing infrastructure and public service facilities.

The Niagara Region Official Plan prescribes an annual residential intensification rate of at least 15% for all lands within Pelham's *Urban Settlement Areas*, this policy target is also reflected in the Pelham Official Plan.

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.

The proposed minor variance application has been submitted to seek relief from the minimum lot frontage zoning provision in order to legalize the conditionally approved lot (being Part 2), within the R1 zone regulations.

Policy 2.6.2 states that development and site alteration shall not be permitted on lands containing archaeological resources or archaeological potential unless the resources have been conserved. The Town's Heritage Master Plan identifies this area as having high archaeological resource potential, therefore an Assessment and Ministry Clearance was required as a condition of severance approval.

The proposed application seeks to increase the residential housing supply within the *Urban Settlement Area* boundary of Fonhill by adding one additional dwelling unit on adjacent lands resulting from a severance approval. Infill development is an acceptable form of *intensification* so long as new development is compatible in nature, is compact, avoids adverse impacts to provincial interest, public health, safety and the quality of the human environment. 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 and *intensification*.

#### 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 '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*.

Policy 2.2.6.2 Housing – states that notwithstanding policy 1.4.1 of the PPS (2014), in implementing policy 2.2.6.1, municipalities will support the achievement of *complete communities* by:

- a) planning to accommodate forecasted growth to this Plan’s horizon;
- b) planning to achieve the minimum intensification and density targets in this Plan;
- c) considering the range and mix of housing options and densities of the existing housing stock; and
- d) planning to diversify their overall housing stock across the municipality.

The proposed minor variance will facilitate the construction of one additional single detached dwelling on a large urban lot. Ground-oriented residential dwellings are the predominant housing type in this Fonthill neighbourhood, with single detached dwellings making up the majority of that mix. Single detached dwellings are also the only permitted use under the default R1 zone of the current Zoning By-law (1987).

The subject lands are located about 1,500 m from Downtown Fonthill, various other commercial uses along Highway 20 West and two public elementary schools.

The proposal will facilitate the construction of one new single detached dwelling on a very large 5,136 m<sup>2</sup> (1.3 acre) residential lot in a more compact form that helps reduce the amount of under-utilized *urban land* within the Fonthill Village. The proposed dwelling will also help contribute towards the municipal property tax base which helps financially support the maintenance of linear infrastructure and *public service facilities*. The existing water and sanitary sewer mains already extend along the frontage of the subject lands but would be better utilized with additional building connections.

#### 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.

Regional staff did not object, nor request to be circulated the proposed applications as the development aligns with Provincial and Regional policies. Any future development on Part 3 will require Regional involvement.

The proposed minor variance conforms to the Regional Official Plan because the lands are located within the *built-up* area which is the planned focus of residential intensification and redevelopment over the long term. The proposed dwelling, together with the required zoning by-law provisions are compatible with the existing surrounding neighbourhood from a land use, housing and urban design perspective.

#### 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 'Urban Living Area / Built Boundary'.

Policy A2.1.2 Natural Environment – states the natural environment objectives of this Plan are to make planning decisions that consider the health and integrity of the broader landscape as well as the long term and cumulative impacts on the ecosystem.

Policy A2.2.2 Growth & Settlement – states that it is a goal of this Plan to encourage intensification and redevelopment within the *Urban Area* specifically in proximity to the Downtown.

Policy A2.3.2 Urban Character – stated objectives of this Plan include:

- To respect the character of existing development and ensure that all applications for development are physically compatible with the character of the surrounding neighbourhood.
- To encourage the intensification and use of the lands within the Fonthill Downtown core and to make every effort to improve its economic health by encouraging redevelopment and broadest mix of compatible uses.
- To maintain and enhance the character and stability of existing and well-established residential neighbourhoods by ensuring that redevelopment is compatible with the scale and density of existing development.
- To encourage the development of neighbourhoods which are compact, pedestrian-friendly and provide a mix of housing types.

The proposed minor variance would facilitate the construction of one new single detached dwelling (on Part 2). The neighbourhood character is one of predominantly ground-oriented residences (i.e. single detached) on large lots with a mixture of 1 & 2-storey houses. The retained lot is compatible in area, frontage and orientation with the neighbourhood.

Policy A2.5.2 Infrastructure – stated objectives of this Plan include maintaining existing infrastructure in a manner that is cost effective and contributes to the quality of life of citizens.

Policy A2.7.2 Cultural Heritage – states it is the Plan's objective to ensure that the nature and location of cultural heritage and archaeological resources are known and considered before land use decisions are made.

No Part IV designated heritage properties flank the subject lands and an archaeological clearance from the Ministry was required as a condition of severance approval.

Policy B1.1.1 recognizes the existing urban area of Fonthill and the role the Town will need to accommodate various forms of residential intensifications, where appropriate.

Policy B1.1.3 provides policy guidance and direction with respect to intensification proposals within the *Urban Living Area / Built Boundary*. While intensification opportunities are encouraged, proponents will be expected to demonstrate, that such proposals will be respectful of, compatible with, and designed to be integrated with the neighbourhood where they're proposed.

In considering residential intensification proposals, the following criteria are applicable:

- a) Schedules A1 and A2 identify a number of areas that may be good candidates for residential intensification. This does not preclude consideration elsewhere in the *Urban Living Area* provided these sites abut arterial or collector roads or are located on a local road on a site that is no further than 100 metres from an intersection with a collector or arterial road;
  - ✓ The subject lands are not identified symbolically as a 'Potential Intensification Area' according to Schedule 'A1'. They are located just over 100 metres from Merritt Road, being the closest collector road.
- b) Intensification and redevelopment proposals are encouraged to achieve a unit density and housing type that is in keeping with the character of the neighbourhood density;
  - ✓ The neighbourhood is predominantly single detached dwellings and the minor variance would help yield one new single detached dwelling on an adjacent lot.
- c) Residential intensification and redevelopment proposals located on lands which abut local roads shall maintain the unit density and unit type of the surrounding neighbourhood, but may through a Zoning By-law Amendment, increase the unit density by up to 25% of the existing gross density of lands located within 300 metres of the site, provided the resultant development will be characterized by quality design and landscaping, suitable building setbacks, and further that parking areas and traffic movements will not negatively impact the surrounding neighbourhood from the perspectives of safety or neighbourhood character;
  - ✓ The proposed zoning would legalize the R1 zone lot frontage deficiency.
  - ✓ There are no traffic and parking issues anticipated with this minor variance application.
- d) Notwithstanding items (b) and (c), the creation of new freehold infill lots through the consent process, for ground-oriented detached dwellings, may be permitted provided the proposed lot and unit type is similar to and compatible with the established character of the street or neighbourhood where it is proposed. The Zoning By-law shall establish minimum lot area and frontages and minimum and/or maximum densities which are considered appropriate within the Urban Living Area designation;
  - ✓ The subject application is for a minor variance approval but is related to a conditionally approved severance.
  - ✓ The proposed use is directly identical to the immediate neighbourhood, that is being a single detached dwelling.
  - ✓ The R1 zone does not stipulate a maximum density but does have default minimum lot frontage requirement.
  - ✓ Low density residential development within an existing low density residential neighbourhood is a compatible level of density.
- e) The creation of accessory apartments and in-law suites within residential neighbourhoods is considered to be an appropriate form of residential intensification.
  - ✓ The current R1 zoning does not permit second dwelling units nor has the applicant submitted a rezoning application requesting the additional permitted use.

In accordance with Provincial and Regional policy, the Town will accommodate at least 15% of projected housing growth, or about 300 residential dwelling units, within the existing built boundaries of Fonthill and Fenwick.

It is noted that the minor variance application seeks to legalize the minimum lot frontage requirement of the default R1 zoning provisions to facilitate the proposed severance (B8-2020P). The proposed minor variance conforms with the Pelham Official Plan as it supports additional housing, appropriate lot geometry and urban

design, good land use planning and is a compatible form of residential intensification in the Village of Fonthill.

Policy E1.5 states that in addition to the *Planning Act's four tests* considered in determining whether to grant a minor variance, applicants should be prepared to demonstrate a need for the requested relief on the basis that the subject zoning provision is not warranted in a particular circumstance, causes undue hardship, or is otherwise impossible to comply with.

Although the *Planning Act*, and Provincial planning case law does not recognize the demonstration of 'need' or 'hardship' as a *fifth test* of a minor variance, the local Official Plan raises this matter. The agent has indicated that the reason it is not possible to comply with the zoning provisions is because that in order to provide for efficient land development consistent with current planning policies, certain zoning provisions need to be amended to facilitate additional housing growth.

Town Planning staff are of the opinion the proposed minor variance conforms to the local Official Plan as it helps enable some gentle intensification within an existing residential neighbourhood and does not conflict with any policies subject to demonstration of appropriate urban design and fulfillment of the proposed conditions of approval.

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

The subject land is currently zoned 'Residential 1' (R1) according to the Zoning By-law. The permitted uses include:

- a) One single detached dwelling;
- b) Accessory uses;
- c) Home occupations.

The minor variance application seeks relief from:

- **Section 13.2 (b) "Minimum Lot Frontage"** to permit a lot frontage of 9.75 m, whereas 19 m is required.

The parcel configuration illustrated on the attached Sketch was conditionally approved by the Committee of Adjustment on October of 2020. The retained parcel, shown as Part 3 requires zoning relief for minimum lot frontage in order to fulfil the conditions of severance approval for Part 2 (file: B8-2020P).

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.	The proposed reduced lot frontage is minor in nature given the surrounding area and because it is wide enough to accommodate either, a single detached dwelling positioned near Line Avenue or a private laneway that could serve future internal development opportunities.
2. The variance is desirable for the development or use of the land.	The variance to reduce the minimum lot frontage is desirable for the lands because it will allow for the creation of an (adjacent) additional residential building lot on a large, underutilized open space within the <i>delineated built boundary</i> of the Fonthill urban

	<p><i>settlement area</i>. Planning staff are of the opinion that a variety of lot frontages are not inherently harmful to neighbourhood character, especially when contrasted to the potential for adverse impacts resulting from careless urban design and architectural practices. Adequate open space amenity area remains for resident recreation and for stormwater drainage purposes.</p>
<p>3. The variance maintains the general intent and purpose of the Official Plan.</p>	<p>The variance to reduce the minimum lot frontage maintains the policy intent of the Official Plan because it will allow for intensification of an existing neighbourhood within the <i>delineated built boundary</i>, add to the housing supply, support existing infrastructure maintenance and make more efficient use of a large existing residential lot. The underutilized open space proposed for redevelopment is proximate to many daily amenities necessary for residents such as shopping, schools and other <i>public service facilities</i>. The minor reduction in lot frontage will not negatively impact the character of the neighbourhood but instead help strengthen and diversify the housing stock. The variance will aid in the gentle intensification of existing <i>Urban Settlement Areas</i> (Policy A2.2.2).</p> <p>Planning staff are of the opinion that the amended zoning provision will not compromise any policy objectives of the Official Plan. A modest adjustment of this performance standard is not foreseen to negatively impact the neighbourhood character with respect to urban design, drainage, privacy, and land use compatible built form.</p>
<p>4. The variance maintains the general intent and purpose of the Zoning By-law.</p>	<p>The variance seeking a reduction of the minimum lot frontage provision maintains the general intent of the Zoning By-law Plan because the lot will continue to allow for single detached residential dwellings in the low density R1 zone, albeit on a narrower frontage. In Planning staff's opinion, adverse impacts associated with the proposed minor reduction in lot frontage appears to be a very remote prospect and unlikely to be alleviated through the process of rezoning.</p> <p>The proposed variance maintains the intent of the Zoning By-law because adequate room is still available for open space / amenity area intentions, privacy buffers and storm water drainage without unduly affecting any neighbours.</p>

**Agency & Public Comments**

On November 12, 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:

- Building Department (December 8, 2020)
  - No comments.
- Public Works Department (December 21, 2020)
  - No comments.

Comments were received from a neighbouring resident which are summarized below and include a staff response.

- 1) Reducing the lot frontage will set the homes too close to the road and create a building misalignment.
  - The *Minimum Lot Frontage* zoning provision is not the same thing as a *Minimum Front Yard* setback provision. No changes to the setback of a future dwelling in relation to the street are being proposed. There are no minimum dwelling width requirements that would prevent a builder from building a narrower house.
- 2) Adding two (2) more additional homes on the property will lead to 'overcrowding'.
  - No more houses or lots are being proposed from last October's (2020) Committee of Adjustment Hearing. This is the same Sketch however; this application is only in regards to Part 3.
- 3) Reducing the lot frontage will expose the house to snow plow windrows. (Existing problem in Downtown and suspects it is a problem for the new houses recently built along Port Robinson Road).
  - Again, 'lot frontage' is not synonymous with 'front yard setback'. Lot frontage essentially controls the width of a property along the front lot line (street), whereas a front yard setback controls the distance between building and the front lot line (street).
  - Based on these comments, it sounds like the concern was with the front yard setback. Snowplow windrows tend to be anywhere from 0.5 – 2 m in horizontal spread depending on the speed of the truck and volume of snow. The historic buildings in Downtown usually have 0 m front yard setbacks and because of the historic Regional widening of Highway 20 and additional vehicle lanes, the road pavement encroaches ever closer to the existing buildings.

### Planning Staff Comments

The proposed minor variance application seeks zoning relief to reduce the minimum lot frontage of the default R1 zoning regulation on Part 3. The zoning relief is required to fulfil the conditions of the conditionally approved severance of Part 2 (file: B8-2020P).

Planning staff have reviewed the *Planning Justification Brief* submitted by Upper Canada Consultants dated October 28, 2020, as well as reviewed all agency and public correspondence submitted to date.

A pre-consult was held with the applicant(s) of the property and staff from the Town and Niagara Region Planning & Development Services on April 2, 2020 to discuss the subject application.

The subject lands are located on the west side of Line Avenue, lying north of Bacon Lane and are surrounded by single detached residences as well as a stormwater management facility to the northeast.

Planning staff visited the site and reviewed aerial photography to better understand the local context. The



neighbourhood is currently dominated by single detached residential dwellings on fairly large lots.

The Official Plan recognizes that additional housing growth via residential intensification, especially in walkable neighbourhoods is an opportunity, and a way to achieve other important goals such as helping support the local business community, providing a diverse housing / demographic mix and maintaining existing infrastructure and neighbourhood vitality. The Official Plan is also vocal about ensuring neighbourhood character is appropriately considered within the decision making process and in keeping with the intent of the Zoning By-law.

It is noted that any future development on Part 3 besides one single detached dwelling will be subject to future *Planning Act* approvals, namely a Zoning By-law Amendment, and Site Plan Approval. Both of which will require Council approval, and the Zoning By-law Amendment will require further public circulation in accordance with the *Planning Act*.

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 minor variance file A1-2021P **be granted**.

Prepared by,



Curtis Thompson, B.URPI  
Planner

Approved by,



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