

January 12, 2021

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

Re: Minor Variance Application A2-2021P
695 Quaker Road, Pelham
Part of Township Lot 237, and Parts 2 – 3 on RP 59R-16726
Roll No. 2732 030 019 10000

The subject lands are shown as Parts 1 – 2 on the attached sketch, are located on the south side of Quaker Road, lying west of Clare Avenue, legally described above, and known locally as 695 Quaker Road in the Town of Pelham.

The subject land is zoned ‘Residential 2 – 297’ (R2-297) in accordance with Pelham Zoning By-law No. 2236 (1987), as amended. The minor variance application seeks relief from:

- i. **Section 6.16 (a) “Parking Requirements”** to permit one (1) required parking stall outdoors, whereas the By-law requires that one (1) parking stall be located in a private garage or carport.

Note: This application is being considered concurrently with file B1-2021P.

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 in an effort to accommodate a new residential dwelling lot through *intensification* under file B1-2021P. As a means to accomplish the concurrent severance application, there is a zoning issue that requires single detached houses in Pelham to provide a garage or carport for their required parking stall. The retained parcel is certainly capable of building a garage or carport from a zoning perspective, but due to the cost and effort, the applicant has explored zoning relief as an alternative means to an end.

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 is being requested as a condition of severance approval on B1-2021P.

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 help 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.

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.

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 zoning relief will not induce land use compatibility issues with the existing surrounding neighbourhood from a land use, housing and urban design perspective. Furthermore, the zoning provision to require a garage or actually harms housing affordability by adding unnecessary cost to the home owner simply to store private vehicles.

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

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 and limited neighbourhood commercial uses. It is noted that the minor variance application seeks to remove the zoning requirement for one (1) parking stall to be located in a garage or carport for single detached houses to facilitate the concurrent severance (B2-2021P). The proposed minor variance conforms with the Pelham Official Plan as it supports additional housing, improves housing affordability, *intensification*, and is good land use planning in the Village of Fonthill.

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 is 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.

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.

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, the garage must be removed to facilitate additional housing growth.

Town Planning only somewhat agree, but are of the opinion that this zoning requirement to build a garage or carport to shelter a private vehicle conflicts with the Town’s policy objectives to provide attainable, affordable housing for its residents. Considering the cost of a new detached garage can easily run several 10s of thousands

of dollars, it can place an unfair financial burden on the homeowner.

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 neighbourhood, improves housing affordability (policy objective A2.2.2) and does not conflict with any policies.

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

The subject land is currently zoned ‘Residential 2 – 297’ (R2-297) according to the Zoning By-law. The permitted uses include:

- a) One single detached dwelling;
- b) Accessory uses;
- c) One second dwelling unit accessory to a principle dwelling; and
- d) Home occupations.

The minor variance application seeks relief from:

- i. **Section 6.16 (a) “Parking Requirements”** to permit one (1) required parking stall outdoors, whereas the By-law requires that one (1) parking stall be located in a private garage or carport.

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.	Requiring the parking stall for a single detached dwelling not necessarily to be located within a garage or carport is minor in nature as there is no substantiated negative impact that would result to either the homeowner, or neighbourhood, from not having the structure. Parking will be available in the new driveway(s).
2. The variance is desirable for the development or use of the land.	Removing the requirement for a garage or carport is desirable for the development and use of the land because it offers the homeowner flexibility to decide whether or not they choose to spend 10s of thousands of dollars to construct such a structure. Furthermore, removing this onerous requirement will provide significant cost savings to the end user and can help with housing affordability.
3. The variance maintains the general intent and purpose of the Official Plan.	<p>The Official Plan does not contain policies requiring the sheltering of private vehicles for ground-oriented residential dwellings. However, the Official Plan does contain policies requiring adequate off-street parking standards, and striving to provide a more affordable housing supply.</p> <p>The proposed variance objectively helps accomplish the affordability policies, demonstrably can meet off-street parking requirements otherwise and does not conflict with any other Town policy.</p>

<p>4. The variance maintains the general intent and purpose of the Zoning By-law.</p>	<p>The proposed variance maintains the intent of the Zoning By-law as adequate off-street parking can still be accommodated without the need for a garage or carport.</p>
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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.

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

Planning Staff Comments

The proposed minor variance application seeks zoning relief to remove the need for the required parking stall for a detached residential dwelling to be located within a garage or carport. The zoning relief is required to fulfil the conditions of the concurrent severance application recommended conditions of approval (file: B1-2021P). Although, should the Committee decide not to approve this variance, the applicant may also appeal the Town's decision or construct a garage / carport with the benefit of a building permit.

Planning staff have reviewed the *Planning Justification Brief* submitted by Upper Canada Consultants dated October 20, 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 October 15, 2020 to discuss the subject application.

The subject lands are located on the south side of Quaker Road, lying west of Clare Avenue and are surrounded by single detached residences, vacant townhouse residential lands and neighbourhood commercial uses. Planning staff visited the site and reviewed aerial photography to better understand the local context.

The minor variance approval will not compromise the subject lands' ability to accommodate a future garage or carport, should that be proposed, because it is of a sufficient size with adequate rear yard access via the easterly side yard. The proposed variance should not negatively impact the surrounding neighbourhood with regards to traffic, privacy and storm water runoff.

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 A2-2021P **be granted**.

Prepared by,



Curtis Thompson, B.URPI
Planner

Approved by,



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