

January 12, 2021

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

**Re: Minor Variance Application A5-2021P**  
**1118 Haist Street, Pelham**  
Part of Lot 3, Concession 9, and Part 2 on RP 59R-16183  
**Roll No. NA**

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The subject parcel, shown as Part 2 on RP 59R-16183, is located on the west side of Haist Street, lying north of Welland Road, legally described above, and known locally as 1118 Haist Street in the Town of Pelham.

The subject land is zoned 'Residential 1 – 282' (R1-282) in accordance with Pelham Zoning By-law No. 1136 (1987), as amended. The minor variance application seeks relief from:

- i. **Section 13.2 (a) "Minimum Lot Area"** to permit a lot area of 685 m<sup>2</sup>, whereas 700 m<sup>2</sup> is required.
- ii. **Section 13.2 (b) "Minimum Lot Frontage"** to permit a lot frontage of 18 m, whereas 19 m is required.
- iii. **Section 13.2 (c) "Maximum Lot Coverage"** to permit a lot coverage of 45%, whereas 30% is required.
- iv. **Section 13.2 (e) "Minimum Interior Side Yard"** to permit an interior side yard of 1.2 m, whereas 1.8 m is required.
- v. **Section 6.35 (c) "Yard Encroachments – Unenclosed Porches"** – to permit an unenclosed porch and steps to project into a required front yard a maximum distance of 2.2 m, whereas 1.5 m is required.

### **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 some zoning provisions in order to legalize the newly registered lot within the R1 zone regulations and to accommodate certain site-specific provisions for a future dwelling.

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.

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.

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.

Policy 10.C.2.1.13 states that *development* and *site alteration* shall only be permitted on lands containing *archaeological resources* or *areas of archaeological potential* if the significant *archaeological resources* have been *conserved* by removal and documentation, or by preservation on site.

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’ with a ‘Special Policy Area’ overlay according to Schedules A1 and A7.

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 approval to reduce the minimum lot frontage and lot area are meant to legally recognize the newly registered lots of record as described on Reference Plan 59R-16183 which was deposited by the Town. The other variance requests are to accomplish design measures that the new owner desires, such as increased lot coverage for a 1-storey dwelling.

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 properties under the *Ontario Heritage Act* exist adjacent to, or in proximity the lands. However, the Town’s Cultural Heritage Master Plan does identify these lands as having high potential for deeply buried archaeological resources. In the absence of an archaeological clearance from the Ministry of Tourism, Culture and Sport, it is recommended that a licensed archaeologist supervise the excavation activities during construction.

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.

It is noted that the minor variance application seeks to legalize the minimum lot frontage and minimum lot area requirements of the Zoning By-law to legally recognize the recently created parcels which were slightly deficient from the default R1 zoning provisions. The other zoning relief being sought is for various yard setbacks and lot coverage which are optional as they relate to the applicant’s design preferences. The proposed minor variances 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 for increasing the lot coverage and reducing building setbacks is to allow for a dwelling that is actually more in keeping with the existing neighbouring dwellings and to construct a 1-storey dwelling.

Town Planning staff are of the opinion the proposed minor variance conforms to the local Official Plan as it helps enable appropriate redevelopment and *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 – 282' (R1-282) 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:

- i. **Section 13.2 (a) "Minimum Lot Area"** to permit a lot area of 685 m<sup>2</sup>, whereas 700 m<sup>2</sup> is required.
- ii. **Section 13.2 (b) "Minimum Lot Frontage"** to permit a lot frontage of 18 m, whereas 19 m is required.
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- v. **Section 6.35 (c) "Yard Encroachments – Unenclosed Porches"** – to permit an unenclosed porch and steps to project into a required front yard a maximum distance of 2.2 m, whereas 1.5 m is required.

The newly registered parcel configurations requests certain zoning regulations (lot frontage and lot area) to be legally recognized while others are merely desired by the applicant.

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.	<p>The proposed reduced lot area and lot frontage are minor in nature given the surrounding area; smaller lot sizes are increasingly becoming common throughout the Town, Region and Province. The reduced lot area can still comfortably accommodate the proposed dwelling, landscaped amenity area, parking and drainage.</p> <p>Increasing the lot coverage beyond 30% is reasonable and practical given modern civil design, house design and infrastructure standards.</p> <p>Reducing the side yard setbacks and increasing porch encroachments can still comfortably accommodate a new dwelling. The rear yard amenity area complies with the default R1 zoning requirements. The side yard setback reduction will not induce any land use incompatibility concerns. The reduced side yard setbacks accord to the Ontario Building Code which often contemplates 1.2 m side yard setbacks as the industry practice.</p>

	<p>The variances are considered minor in nature as no adverse impacts are anticipated from the requested variances. This is because the resulting built form is generally consistent with the existing neighbourhood from a land use, orientation and massing perspective and is considered an appropriately sensitive form of infill redevelopment.</p>
<p>2. The variance is desirable for the development or use of the land.</p>	<p>The variances to reduce the minimum lot area and lot frontage are desirable for the lands because it will legally recognize the recently created residential building lot. The reduced lot size and lot frontage will be indistinguishable from surrounding residential lots. Planning staff are of the opinion that a variety of lot sizes are not inherently harmful to neighbourhood character, especially when contrasted to the potential for adverse impacts resulting from careless urban design and architectural practices.</p> <p>Though the proposed lot coverage increase is not required, some degree of increase is considered desirable in this instance because it will help facilitate a wider range of 1-storey (bungalow) house designs. This requested permission may help reduce any potential privacy concerns to adjacent neighbours. The increased lot coverage will help facilitate a larger building footprint / gross floor area for the new dwelling, which is in keeping with the large homes nearby, characteristic of the neighbourhood.</p> <p>Reducing the applicable building setbacks and increasing the unenclosed porch encroachment is desirable for the subject land because it will offer more design flexibility, help 'frame' the Haist Street streetscape while still avoiding any negative impacts associated with its permission. The reduced side yard setbacks proposed continue to accord to that of the Ontario Building Code. In addition, permitting the porch encroachment of 2.2 m will actually allow for a usable front porch whereas 1.5 m is not very practical.</p> <p>Adequate open space amenity area remains for resident recreation and for stormwater drainage purposes. The proposed spatial separation between property lines is also consistent with contemporary development standards and should not adversely impact the leisure and privacy of others.</p>
<p>3. The variance maintains the general intent and purpose of the Official Plan.</p>	<p>The variances to reduce the minimum lot area and lot frontage maintain the policy intent of the Official Plan because they 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 minor reduction in lot area and</p>

	<p>lot frontage will not negatively impact the character of the neighbourhood.</p> <p>In Planning staff's opinion, the proposed increased lot coverage does not conflict with the purpose and intent of the Official Plan as it will help reinforce sensitive infill development and neighbourhood character by echoing similar built form and massing.</p> <p>The proposed reduction in yard setbacks and porch encroachments maintain the general intent of the Official Plan because it will help facilitate compatible residential development through the use of large(r) building footprints / gross floor areas given the reduced lot size, and compact urban development. The reduce yard setbacks will also help ensure the pedestrian-friendly policies of the Official Plan are upheld, particularly with respect to good urban design principles (i.e. visible front porches with less emphasis on the garage), and positive streetscape interfaces throughout the public realm.</p> <p>Planning staff are of the opinion that the amended zoning provisions, subject to conditions, will not compromise any policy objectives of the Official Plan. A modest adjustment in select performance standards on the subject lands are not foreseen to negatively impact the neighbourhood character with respect to urban design, drainage, privacy, and land use compatible built form. Instead, proper execution of these amended zoning provisions should help enhance the neighbourhood over the long term.</p>
<p>4. The variance maintains the general intent and purpose of the Zoning By-law.</p>	<p>The variances seeking reductions of the minimum lot area and lot frontage provisions maintain the general intent of the Zoning By-law Plan because they will continue allowing for single detached residential dwellings in the low density R1 zone, albeit on a slightly smaller parcel. The proposed lot area and lot frontage are still in keeping with the surrounding neighbourhood. In Planning staff's opinion, adverse impacts associated with the proposed minor reductions in lot area and lot frontage appear to be very remote prospects.</p> <p>Planning staff are of the opinion that the 45% lot coverage increase will not conflict with the general intent of the Zoning By-law because it will continue to allow for adequate landscaped amenity area, stormwater management, and relatively compatible building scales. The increased lot coverage appears to offer more opportunity for the builder to explore 1-storey, bungalow style housing forms.</p>



	<p>The proposed reduction in yard and porch setbacks is less than what is required by By-law but still includes ample space for building maintenance purposes, spatial separations between uses and adequate open space amenity areas as the Zoning By-law was intended. The proposed encroachment of the front yard porch actually better complements the public realm and Haist Street streetscape.</p> <p>Together, the proposed variances maintain 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>
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**Agency & Public Comments**

On November 25, 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)
  - Building permit(s) will be required.
- Public Works Department (December 21, 2020)
  - No comments.

Public comments were received from a neighbouring resident which is attached and summarized below.

- Does not support amended zoning to add three (3) houses.

**Planning Staff Comments**

Planning staff have reviewed the *Planning Justification Brief* submitted by Urban & Environmental Management Inc. dated November 17, 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, NPCA and Niagara Region Planning & Development Services on November 5, 2020 to discuss the subject application.

The subject lands are located on the west side of Haist Street, lying north of Welland Road and are surrounded by single detached residences to the north and east. A public park and future residential development are situated to the south and southwest.

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 the subject lands were part of a larger public consultation and design process with regards the redevelopment of the former arena lands and at that time the development of three (3) lots fronting on Haist Street for single detached residential lots was supported by the community and Council. The proposed variances will implement that vision for the three (3) lots on Haist Street.

The landowner has not submitted any formal *Planning Act* development applications to permit redevelopment to the rear at this time. Development of these internal lands will be subject to further *Planning Act* development approvals, namely a draft plan of subdivision.

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 A5-2021P **be granted** subject to the conditions below:

**THAT** the applicant

- At the time of building permit, provide front dwelling *Elevation Plans* that positively contribute to the public street through the use of a covered front porch, windows symmetrically proportionate to the building's mass, and a congruent use of exterior cladding etc., to the satisfaction of the Director of Community Planning & Development; and
- Ensure that a licensed archaeologist be present on the site during the time of excavation to supervise this process and ensuring that:
  - Should deeply buried archaeological remains / resources be found on the property during construction activities, all activities impacting archaeological resources must cease immediately, notify the Archaeology Programs Unit of the Ontario Ministry of Heritage, Sport, Tourism & Culture Industries (416-212-8886) and a licensed archaeologist is required to carry out an archaeological assessment in accordance with the *Ontario Heritage Act* and the *Standards and Guidelines for Consultant Archaeologists*.
  - In the event that human remains are encountered during construction, all activities must cease immediately and the local Police as well as the Cemeteries Regulation Unit of the Ministry of Government & Consumer Services (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, MTCS should also be notified to ensure that the site is not subject to unlicensed alterations which would be in contravention of the *Ontario Heritage Act*.

Prepared by,



Curtis Thompson, B.URPI  
Planner

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Approved by,



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