

Committee of Adjustment**Minutes**

Meeting #: CofA 12/2020
Date: Tuesday, December 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

Staff Present Nancy Bozzato
Holly Willford
Sarah Leach
Curtis Thompson

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.

4. Requests for Withdrawal or Adjournment

None.

5. Applications for Minor Variance

5.1 A28/2020P - 1 Highway 20 West

Purpose of Application

Application for relief of 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 and 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%, to construct a residential apartment on the ground floor of the proposed 3-storey, mixed-use building

Representation

The Agents, Craig Rohe from Upper Canada Consultants and Todd Barber from Forest Green Creations were 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 and Development Services

Applicant's Comments

Mr. Craig Rohe indicated he supports the staff recommendation report. He stated the applicant is ready to execute the site plan agreement; however the developer was able to find ways to enhance the project which is why the minor variances are being sought. Mr. Barber stated his organization was invited to tweak the design and look for opportunities to enhance. He stated there is an additional residential unit at grade and more green space.

Public Comments

Ms. Holly Willford, Assistant Secretary Treasurer indicated there were no pre-registered members of the public and checked the clerks@pelham.ca email address at 4:16 pm and confirmed no e-mails has been received with regard to the subject application. Ms. Willford indicated the public comment portion of the application could be closed. The Committee agreed to close the public portion of the meeting and deliberate.

Members Comments

A Member asked if the old Keith's restaurant would be torn down. In response, Mr. Rohe indicated he understands the building will remain. The Member asked if the parking lot would be demolished. In response, Mr. Barber indicated there will be no revisions to the 'Keith's' building, rather he indicated the proposal is celebrating the building by incorporating the original brick into the courtyard. He further advised the build is under different ownership.

A Member indicated some of the parking is owned by the applicant and some is owned by the Town of Pelham. Another Member indicated he agreed and that this was seen by the Committee earlier.

A Member indicated the additional residential unit is an asset to this development.

A Member indicated he does not like to see driveways decreased and indicated that someone with a large vehicle may have difficulty, however stated he believes he can live with the requested decrease.

Moved By Sandra Marsh

Seconded By John Klassen

Application for relief, of 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 and 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%, is hereby: GRANTED.

The above decision is based on the following reasons:

- 1. The variance is minor in nature as the parking area will still function well and allow for safe and practical movement of vehicles, as it will not affect the appearance of the building as commercial along the frontage and commercial uses are still being provided at grade and as it 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 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 will allow for a more efficient use of the parking area while facilitating some outdoor amenity space for the ground floor residential unit, as it support existing and future commercial uses and it will allow for an improved building design and site function in a key location in Downtown Fonthill.**
- 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.**

Prior to the issuance of the Building Permit:

- 2. To the satisfaction of the Chief Building Official that:**
 - 1. A filing of a Record of Site Condition be submitted.**
- 3. To the satisfaction of the Director of Community Development and Planning that:**
 - 1. Provide revised drawings for the Site Plan Agreement.**

Carried

6. Applications for Consent

6.1 B11/2020P - 282 Canboro Road

Purpose of Application

Application 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.

Representation

The Agent, Ethan Laman 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 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

Applicant's Comments

Mr. Laman indicated he agreed with the recommendation report and suggested conditions. He stated the application is for a minor boundary adjustment.

Public Comments

Mr. Shawn Reeves indicated he owns property that abuts the application. He stated the property zoning is currently CR and stated he understands commercial property needs 90m of frontage to have a commercial use on the lands. He stated this application, if approved, provides the property the required frontage to be used as commercial. He indicated he is concerned the lands will not be used for residential property in the future. He stated he is concerned he will have a commercial property beside his residential home and indicated this would devalue his property. He stated he is not opposed to the use being residential but is opposed to it being commercial.

A Member indicated the Committee could only consider the application before them, being a boundary adjustment. He stated the Committee cannot consider what may happen in the future. The Member advised any redevelopment would require a rezoning and that there would be another public meeting.

Ms. Holly Willford, Assistant Secretary Treasurer indicated she checked the clerks@pelham.ca email address at 4:34 pm and confirmed no e-mails has been received with regard to the subject application. Ms. Willford indicated the public comment portion of the application could be closed. The Committee agreed to close the public portion of the meeting and deliberate.

Members Comments

A Member asked why the southerly boundary of the sketch did not extend. In response, Mr. Laman indicated the boundary was chosen to ensure both parcels are 1 acre in size for septic requirements.

A Member asked if the 286 is zoned commercial rural and is legal non-conforming residential, does that prohibit the owner to build a commercial venue right now. In response, Mr. Curtis Thompson, Town Planner,

indicated the house would likely have to come down, as there are requirements for private sewage systems. He stated it would be difficult to support with another building on the property. The Member indicated, with the addition of these lands he will have over an acre (1.2) of lands and stated the owner would only need a minor variance to allow for a residential and commercial venture on the property, as there is a requirement of 1.9 acres. The Member asked Curtis to confirm the owner would require another minor variance in the future for a commercial use. In response, Mr. Thompson indicated the 1.9-acre requirement is a subsection in the commercial rural zone that relates to the permission of accessory rights for residential uses and stated this requirement would come into play if they were proposing a commercial with a residential above, etc. He stated if it is only a standalone commercial building, the requirement is 1 acre and 30m of frontage. Mr. Thompson said hypothetically this could happen, subject to site plan approval. He stated if it was for a mixed-use building they would need some type of zoning relief.

A Member asked Mr. Thompson if it is important for the consent to have 1 acre of lands. In response, Mr. Thompson stated this satisfies the requirement of the Region for sewage system.

Moved By John Klassen

Seconded By Sandra Marsh

Application 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, is hereby: GRANTED

The above decision is based on the following reasons:

- 1. The applicant is aware that additional zoning applications may be required for accessory building uses and / or that demolition permits may be required if zoning compliance cannot be achieved.**
- 2. 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.**

3. **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.**
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 all 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.**

To the Satisfaction of the Director of Community Planning and Development

1. **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 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 3 to merge with Part 2 of the**

sketch), the subject parcel and the said abutting parcel shall merge in title and become one contiguous parcel of land. 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.

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

7. Minutes for Approval

Moved By Sandra Marsh

Seconded By John Klassen

That the minutes of the September 1, 2020 Committee of Adjustment hearing be approved.

Carried

Moved By John Klassen

Seconded By Sandra Marsh

That the minutes of the November 3, 2020 Committee of Adjustment hearing be approved.

Carried

8. Adjournment

Moved By John Klassen

Seconded By Sandra Marsh

**BE IT RESOLVED THAT this Meeting of the Committee of Adjustment
Hearing be adjourned until the next regular meeting scheduled for January
12, 2021 at 4:00 pm.**

Carried

Don Cook, Chair

Secretary-Treasurer, Nancy J. Bozzato