

Committee of the Whole Meeting

Minutes

Meeting #: PCOW-02/2021 - Public Meeting Under Planning Act
Date: Monday, February 8, 2021
Time: 5:30 PM
Location: Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

Members Present: Marvin Junkin, Lisa Haun, Bob Hildebrandt, Ron Kore,
Wayne Olson, Marianne Stewart, John Wink

Staff Present: David Cribbs, Holly Willford, Barbara Wiens, Jason Marr
(part-time), Tara O'Toole, Sarah Leach

1. Call to Order and Declaration of Quorum

Noting that a quorum was present, the Mayor called the meeting to order at approximately 5:35pm.

Ms. Holly Willford, Deputy Clerk read opening remarks regarding the Zoom Webinar meeting and procedures for public participation.

2. Adoption of Agenda

Moved By Councillor Wayne Olson

THAT the agenda for the February 8th, 2021 Public Meeting Under the Planning Act, Special Meeting of Committee of the Whole, be adopted as circulated.

Amendment:

Moved By Councillor Wayne Olson

THAT the agenda be amended to include the addendum items, being the addition of:

- **John and Jill Cappa, Patrick Maloney and Stephen Kaiser as pre-registered members of the public; AND**
- **the addition of: Jessica and Evan Leung, Carol Jones, Mike and Mary Hughes, Tim Nohara, Todd Barber and Annette Mastracci written correspondence.**

For (7): Marvin Junkin, Lisa Haun, Bob Hildebrandt, Ron Kore, Wayne Olson, Marianne Stewart, and John Wink

Carried (7 to 0)

Main Motion as Amended:

Moved By Councillor Wayne Olson

THAT the agenda for the February 8th, 2021 Public Meeting Under the Planning Act, Special Meeting of Committee of the Whole, be adopted as amended.

For (7): Marvin Junkin, Lisa Haun, Bob Hildebrandt, Ron Kore, Wayne Olson, Marianne Stewart, and John Wink

Carried (7 to 0)

3. Disclosure of Pecuniary Interest and General Nature Thereof

There were no pecuniary interests disclosed by any of the members present.

4. Planning Act File Numbers: AM-04-2020 and OP-AM-01-2020 - Second Dwelling Units

The Deputy Clerk read into the record the Notice Requirements regarding this application.

4.1 Planning Report

Ms. Tara O'Toole, Town Policy Planner provided a presentation of an overview of the official plan and zoning by-law proposed amendments. A copy is available through the Clerk.

4.1.1 Second Dwelling Units - Public Meeting, 2021-0038-Planning

4.2 Public Input

Ms. Sherry Rusin stated she believes the *More Homes, More Choices Act* is helpful and hopes the proposal presented can help her or other families. Ms. Rusin indicated 2020 has changed the outcome of her 5 year plan greatly and stated COVID has resulted in her family losing 90% of their income. She indicated her mother-in-law's mobility has deteriorated therefore her daughter has been coming home to help take care of her. They are looking at options to keep everyone in one household.

Ms. Rusin indicated she would like some clarification on some items and hopes that the current Council understands what fits Fonthill may not fit all of Pelham. Ms. Rusin asked questions regarding the size and location of the second dwelling unit on the property and how services will be affected. Ms. Rusin further asked questions with regards to existing septic systems and how they will function with increased use. She further asked about basements and the requirement of a sump-pump in new buildings under the building code. She further mentioned the location of HVAC and hot water tanks are normally within the basement however does not see this mentioned in the proposals. Ms. Rusin indicated some members of the community have indicated concerns about parking, however indicated the

rural areas do not have this issue, however indicated driveways and turn-about may need to be addressed.

Ms. Rusin asked if a secondary home is built on a property, can the property be sold later with the secondary dwelling being severed off to allow the family to stay in place.

Ms. Anne Marie Matthews indicated she moved to Fenwick almost 2 years ago. She stated her father has been diagnosed with dementia. She indicated her family is in an unsustainable situation where she drives 30 minutes to attend to visit or care for her family while working full time. Ms. Matthews stated the proposal presented gives her tremendous hope to find a solution for her inter-generational family needs.

Ms. Matthews stated she has three considerations she would like to present. She indicated she lives on an agricultural property and requested perhaps the Town could consider allowing the second unit dwelling to be 50% in size of the primary dwelling. Ms. Matthews asked the Town to consider larger distance between the primary dwelling and the secondary dwelling if the property is large. She also asked if the footprint of an existing barn could be used for a second dwelling building. She cited various personal family reasons for the requests, such as safety, dignity of others and privacy.

Mr. Mike Jones requested Council pass a motion of *stay* to allow another public meeting to be held after the pandemic to allow for true democracy. He stated he believes the proposed by-law is a major change and is an important topic as it affects the entire Town. Mr. Jones indicated the *stay* should be until the pandemic is over, therefore all those who wish to be heard can be heard. Mr. Jones indicated he believes a vast majority of the residents are not aware of what was put forward due to a lack of transparency. He further indicated he believes a proposal of this importance warrants a notice to all citizens in the Town. Mr. Jones stated a onetime notice in the paper or on the Town's website is not enough. Mr. Jones indicated many people do not get a hard copy of the newspaper, receive online news, understand how to maneuver the website or have a computer. He stated he believes lack of public notice has been given to the public.

Mr. Jones indicated during the shutdown government needs to be innovative on ways to connect to the constituents and for the Town to listen to the people. He stated the Town must notify the entire population of the proposals being made by finding ways and using tools at their disposal. Mr. Jones suggested a letter be sent to all residents as a tool that should be used for notice when major changes are being sought. He further suggested weekly notification in the local paper or a chat online on the website are additional ways to receive ideas. He also suggested more than one public meeting.

Mr. Jones stated the way the Town has been following does not lead to a clear form of transparency or real democracy. He stated the protocols and procedures put in place during normal times is not enough to inform or allow proper debate during the pandemic. He further emphasized his request for a motion to *stay* to provide true democracy. He stated it is imperative to have a hard copy letter to be sent out to all residents prior to any major changes in by-laws. Mr. Jones further stated this is a major attempt to change the Town's identity and lifestyle. He stated this meeting must be stayed and should be delivered in real time, not zoom time, but rather at the MCC. He stated the amendment must be placed on hold until it is possible to hold such a meeting.

Mr. John Cappa stated the proposal is not something new to municipalities and that this has been going on a long time. He stated this is happening all over the province and that is because it is a mandate of the province. Mr. Cappa stated there is still fear in the community, for items such as parking, however indicated we do not have to reinvent the wheel. He stated we need to get going on this and follow what the rest of the province is doing and therefore will be perceived as a community that is welcoming.

Mr. Cappa indicated we always want more time to make sure we get it right, however stated he is not sure how much more time Anne's parents have to wait. He stated the Town has to act decisively and to ask what is best for the community as a whole. Mr. Cappa provided examples of situations in which this proposal will help those in the community – seniors, those without retirement savings, young people without support from their parents or family or the average middle class family who are looking for a good community with good homes and schools. He stated if affordability is not brought into the Town, the Town will not have those young families.

Mr. Cappa also indicated the proposal will have an economic impact. He stated this will diversify the existing housing and rental stock in the Town. He stated the proposal will lead to better use of infrastructure. Mr. Cappa indicated this could allow a family to rent their basement and afford their mortgage. He stated ¼ of all rental units are secondary dwelling units. He stated many of these are illegal rentals and indicated if there is a legal process for people to follow then they can register. Mr. Cappa indicated for those that continue to operate illegally can be penalized.

Mr. Cappa stated he hopes Council moves forward will the proposal. He stated as a rebuttal, he believes education and communicating what this means to residents is important. He stated these proposals allow compassion to allow people to manage their own family.

Mr. Patrick Maloney from Sullivan Mahoney LLP indicated he was appearing before Council on behalf of two clients. He stated he requests further changes be made to allow second dwelling units to be permitted in semi-detached dwellings and townhouse dwellings and to allow secondary dwellings in the zones in which those types of dwellings are permitted. Mr. Maloney stated he has had productive conversations with town planning staff in this regard already.

He stated the changes are being proposed to address the provincial interest of intensification, the addition of housing types and providing more affordable housing types. He stated the province has made it clear municipalities must have policies within their official plan that authorize secondary dwelling units in single detached dwellings, semi-detached dwellings and townhouses. He stated this is a legislative requirement. He stated the legislation states the municipality must authorize secondary dwelling units in single detached dwellings, which it does, but also in semi-detached dwellings and townhouses. Mr. Maloney stated the Town can regulate the use with certain zoning standards which is what the zoning changes provide for.

Mr. Maloney stated the Town is not immune to these legislative requirements and must authorize these secondary dwellings units within semi-detached dwellings and townhouses. He stated he has expressed his concerns to Town planning staff that the official plan policies must authorize secondary dwellings in semi-detached dwellings and townhouses as the current language of the Town's official plan does not authorize this. He stated a further process of a zoning by-law amendment that has to be approved by council is required before that type of use is authorized; therefore logically speaking the Town could refuse the application. He stated the refusal would mean that it was never authorized therefore any application would have to be approved otherwise the Town would be contrary to the *Planning Act*. Therefore, Mr. Maloney stated he is asking the Town to comply with the legislation and allow for secondary dwelling units in both semi-detached and townhouses, without other *Planning Act* application and to allowing for the zoning to allow those types of uses.

Mr. Stephen Kaiser indicated when he heard the Town was working on this policy he stated he wanted to do whatever he could to support the direction for a host of reasons. Mr. Kaiser briefly reviewed his professional background and indicated he feels he is uniquely qualified to speak on the issue.

Mr. Kaiser stated his first work with the Town was 35 years ago when the last zoning by-law was revised. He indicated the zoning by-law is now out-of-date and lacks vision and growth for redevelopment. Mr. Kaiser indicated the Town's Official Plan was updated in 2014. He applauded Council for committing the resources to up-date this stagnate zoning by-law and stated

tonight's initiative is a positive step. Mr. Kaiser indicated this is important as the Official Plan designated an area in the Town allowing for accessory apartments, however one would have to apply for a site specific re-zoning to achieve this. He stated this is a daunting task and relayed his experience on his past redevelopment projects on Emmet Street.

Mr. Kaiser indicated there must be greater choice for housing and affordability. He reflected on his own immediate families living situation and how it has changed and evolved over the year. He stated when his son was in university his girlfriend lived with them for a year due to a family situation, his sister when she was middle-aged moved back home with their parents while she furthered her education. He indicated as his parents were older they sold their house in Fonthill and lived with his sister for a number of years. He further stated his niece and nephew, at different times have lived with his mother-in-law in Fonthill seeking an affordable place to live. Mr. Kaiser indicated his mother-in-law now lives with him and his wife. He stated he shared these examples to show some unique living experiences that are likely not that uncommon with other families. Mr. Kaiser indicated, although each living arrangement was workable it would have been easier if a secondary dwelling unit was part of the home. He further emphasized the importance of affordable housing.

Mr. Kaiser indicated the provisions for secondary dwellings are not new to the municipal sector and are encouraged by the province. He asked for this type of housing to be allowed across the Town. He applauded Council and staff for the initiative and stated this is not a giant step but a good leap forward in updating the zoning by-law and official plan.

Ms. Willford indicated an email has been received from Jim Addario at 6:24pm. Ms. Willford read the email into the record as follows: Watching the live public meeting, I would like to say that the town is heading in the right direction. One of the presenters, commented on Agricultural property and I have to say she has a point. I'm not convinced that and maximum distance from an existing dwelling is necessary. There are existing building in a site that can be utilized and should not be restricted by a specific distance. It would be best to allow a SDU based on site specific situation providing the setbacks can be meet. Let's not be too restrictive and allow more flexibility...Thanks.

Ms. Willford indicated at 6:40pm there are no other e-mails received at the clerks@pelham.ca email address and Ms. O'Toole may wish to address the comments or concerns raised and then the public portion of the meeting could be closed.

Ms. O'Toole indicated she had been taking notes throughout the meeting and will review them in detail and see how the Town might be able to accommodate the requests. Ms. O'Toole

indicated there had been many comments made with respect to the agricultural area and indicated staff would like to receive direction with regards to potentially increase the maximum size of units in the agricultural zoned areas. She further indicated questions with regards to septic systems and basement units will be guided by the requirements within the Ontario Building Code.

Ms. Barb Wiens, Director of Community Planning and Development indicated a permitted second dwelling home in the agricultural area would not be allowed to be severed in the future. Ms. Wiens indicated there are provincial policies in place to protect agricultural land and therefore, would not be able to be severed.

Ms. Wiens indicated that the Niagara Region handles septic systems, cisterns and their size requirements. She stated the Region would determine if a system needed to be expanded.

Ms. Wiens indicated staff would like direction as to the comments made requesting larger dwelling sizes. She indicated the 700 square foot limitation was chosen as it would allow for a 1 bedroom unit with den, a small 2 bedroom unit, or a larger 1 bedroom unit. Ms. Wiens indicated the intention was to achieve affordable units.

Ms. Wiens indicated the rationale for the 40m separation for a second unit was to have a cluster of buildings in the agricultural area. Ms. Wiens indicated this is to protect the agricultural lands. She indicated an existing building could be used for the second dwelling and stated perhaps some clarity on this is needed.

Ms. Wiens indicated she does not disagree with Mr. Maloney's comments and stated that staff are reviewing and trying to find some balance while complying with the legislation.

Regarding holding off until the Town can have a meeting in person, Ms. Wiens indicated although she can appreciate where the resident is coming from and his comments with respect to democracy and transparency, she stated the Town has been working on second dwelling units for some time. Ms. Wiens indicated the province passed the *More Homes, More Choices Act* in 2019, and stated the *Planning Act* was amended in 2011 and indicated municipalities had to have policies to address second units.

Ms. Wiens indicated these types of units might be happening illegally and that with policies the Town can address these types of units and ensure they are done to meet life safety requirements.

Ms. Willford confirmed no emails had been received at 6:50pm and the public portion of the meeting was officially closed.

4.2.1 Pre-Registered Members of the Public

- 4.2.1.1 Sherry Rusin**
- 4.2.1.2 Anne Marie Matthews**
- 4.2.1.3 Mike Jones**
- 4.2.1.4 John and Jill Cappa**
- 4.2.1.5 Patrick Maloney, Sullivan Mahoney LLP**
- 4.2.1.6 Stephen Kaiser**

4.2.2 Written Public Comments

- 4.2.2.1 Murray and Helen Downie**
- 4.2.2.2 Jessica and Evan Leung**
- 4.2.2.3 Carol Jones**
- 4.2.2.4 Mike and Mary Hughes**
- 4.2.2.5 T. Nohara**
- 4.2.2.6 Todd Barber**
- 4.2.2.7 Annette Mastracci**

4.3 Committee Input

A Member of Council asked if an owner of a secondary unit dwelling can sell the property to a third party. In response, Ms. Wiens indicated if an owner has a secondary dwelling unit within an existing building the only way it could be sold is if it was by condo, and would be unlikely. Ms. Wiens indicated if a separate accessory structure was built, the only way it could be sold is if the owner severed the lands, however, Ms. Wiens stated they would have to meet many required zoning regulations and would be unlikely to happen. She further advised the agricultural area does not allow for new residential lots to be created.

A Member asked if a secondary dwelling unit was vacant could the owner rent the unit as a short term rental. In response, Ms. Wiens indicated the owner would not be able to rent the unit as short-term rentals are not permitted in the Official Plan and Zoning By-Law for apartment units or second dwellings.

A Member asked if residents would be notified if a secondary unit dwelling was approved in their neighbourhood. In response, Ms. Wiens indicated if Council approved the Official Plan and Zoning By-Law as a right then neighbours would not be notified. Ms. Wiens indicated a building permit would be required and that does not require public notification. She indicated the policies presented do not require notification as the policies are intended to make second dwelling units as un-intrusive as possible. Ms. Wiens stated from the street view there is likely to be very little indication there is a secondary dwelling unit and the entrance is

required to be off to the side, there is a requirement for additional parking, however paving of the front yard for more parking will be prohibited. She stated the planning department is trying to develop a way to allow for this use however have low impact on the neighbourhood.

A Member asked how Niagara-on-the-Lake is handling secondary unit dwellings. In response, Ms. O'Toole indicated she had reviewed a few municipalities in her research and would get back to Council.

A Member stated Ms. Wiens had indicated the buildings were to be as un-intrusive as possible with respect to a secondary dwelling. The member asked about height requirement for an accessory building to the primary building stating he believed the accessory building should not be higher than the primary building. In response, Ms. Wiens indicated planning staff will review this. She further indicated the intent of the height restriction was for secondary dwelling units above garages. The Member indicated he questioned the need to look at semis and townhouses differently. He indicated he would be in favor of incorporating semi and townhouses in with single family dwellings.

Ms. O'Toole indicated Niagara-on-the-Lake permits 1 additional accessory dwelling unit within a single detached or semi-detached dwelling.

A Member indicated the presentation identified issues we have in society today and the situations some families are in. He stated he believed the proposals will likely be attractive to some families and aid disabled people as well to live on their own and manage their own lives. The Member asked if a farm building could be converted into a dwelling place. In response, Ms. Wiens indicated certainly that would be allowed. She indicated the issue would be the size of the conversion. She further mentioned, depending on the use of the building a record of site condition might be required. The Member stated he agreed with Mr. Maloney and that semi and townhouses should be included in the policy.

A Member indicated one of the comments made by the public was there was only 1 public notice in the newspaper. The Member asked how many public notices were in the paper. In response, Ms. Wiens indicated she believed two consecutive notices were in the paper.

A Member asked about section (e) on (b) 1.1.4 stating the section indicates second dwelling units will not contribute to density but will be included in the Town's intensification process. The Member asked why it will not be included in both. In response, Ms. Wiens indicated there is flexibility in second dwelling units as you could have one but then it can easily be converted back. She indicated it is common practice

that secondary dwelling units are not be counted towards intensification or towards the intensification targets. Ms. Wiens indicated secondary dwelling units do evolve and they do shift in and out depending on who is living in the home. The Member indicated he would have wanted it included, as he believes it makes a difference.

A Member asked for confirmation that a secondary dwelling unit cannot be used for a short-term vacation rental. Ms. Wiens confirmed that was correct.

A Member asked why the Town is only asking for 1 parking space for a secondary dwelling unit and indicated he did not believe it was enough. In response, Ms. Wiens indicated the standard for a dwelling unit is 1 parking space per unit. She further indicated limiting the size of the secondary dwelling unit also limits the number of people and therefore the parking need.

The Member indicated the parking study commissioned will be important and that perhaps Council needs the parking study before passing the second dwelling unit policy.

A Member indicated he believes the design of the septic system and water supply is critical. He asked how permits are to be addressed. In response, Ms. Wiens indicated part of a building permit in a rural area requires to have your septic permit approval from the Region prior to submitting your building permit application.

The Member asked if a person applies for a secondary dwelling unit, do they have to comply with everything as if they were a new homeowner with an approved design by an engineer or proper licensed individual. In response, Ms. Wiens indicated yes, even if you are renovating an existing home, if on septic the addition of a bedroom or bathroom triggers septic system review. She indicated the Region will conduct a site visit and make a determination if the septic system requires expansion. Ms. Wiens indicated any construction requires all drawings to be submitted to the Town and are required to be prepared by qualified individuals.

A Member indicated a parking study is being completed in April / May and believes we are jumping the gun to assume we only need 1 parking space until the study is completed. The Member stated maximum size allowed for the secondary dwelling unit is small, however can accommodate two people and therefore may not mean just 1 vehicle. She indicated neighbours will not be happy if someone is always parking on the street in front of their home.

A Member indicated she is concerned that units do not need to be owner occupied. The Member indicated if the unit is not owner occupied or to help your family there is nothing to stop the units from being rentals. She also indicated she is

concerned about the parking and believes the Town should not go forwarding without the parking study.

A Councillor asked if the width of the driveway could be adjusted from a single car wide driveway to a 2 car wide driveway. In response, Ms. Wiens indicated yes, if the property had a singlewide driveway, the owner would be allowed to widen the driveway to accommodate the parking for the additional unit. She stated there are restrictions to ensure the front yard is not completely paved for parking.

A Member asked if a second dwelling unit would be allowed in a bed and breakfast. The Member stated under the Niagara Escarpment Plan second dwelling units shall not be permitted in group homes or bed and breakfasts. The Councillor asked if this applies to the whole Town of Pelham. In response, Ms. Wiens indicated this is not something staff is proposing. She stated if the bed and breakfast was on a rural property they would be able to have a secondary dwelling unit. Ms. Wiens stated the policy the Councillor is referring to is the Niagara Escarpment plan and their policy.

The Mayor indicated he believes this policy is long overdue for the Town and for all Towns in Ontario. He stated there is a homelessness issue in this country. He stated this is something with the right controls that would help the situation. The Mayor stated he hopes as a Council they can come to a conclusion. He stated Council has heard so many people here tonight that are waiting for this. He indicated there are so many elderly people out there that do not have enough money to afford to live in a long-term home or seniors building. The Mayor said if elderly can stay with their loved ones, it is compelling to get this done. He stated the Town should get this done as soon as possible and as least disruptive as possible. He stated to deny there is a need for this is not socially responsible.

A Councillor suggested a spreadsheet with comparisons to other municipalities or best practices would be helpful. In response, Ms. O'Toole indicated she has done a lot of research and can put such a chart together.

The Mayor stated there was a complaint logged that there was lack of advertising and that perhaps people do not have computers. He asked what the cost would be to do a complete mailing of all residents. In response, Mr. Cribbs, CAO indicated there are a little over 7,000 residences in the Town. He estimated the cost to do a full mail out would be \$14-\$15,000.00. Mr. Cribbs indicated the Town has been functioning really well during the COVID shutdown for the past 11 months. He stated the Town has fully complied with the law and has done more than the *Planning Act* requires. Mr. Cribbs stated during lockdown the Town has had a far higher rate of citizen engagement because people are reading the newspaper or watch Council on zoom. He further stated there is nothing unique

about what is being proposed. Mr. Cribbs stated the Town has been working on this for close to two years and stated this has been in law for 10 years. He stated this is not a last minute push, rather indicated the law requires we provide a way to do this and not moving forward is not an option. Mr. Cribbs said this does not mean the Town cannot take into consideration the results of a parking study. He stated the Town has been communicating effectively with the community and that there was a good response to this meeting. He further stated that there is nothing unique about this proposal and it is not more critical to the future of the community than short-term rentals, gypsy moths or cannabis, and the Town did not do mailings to everyone on those issues. Mr. Cribbs stated the Town does not adjust standards because some residents are opposed. Furthermore, he stated staff receive 2 or 3 inquiries about this a month, therefore there is real demand for this service. In response, the Mayor thanked Mr. Cribbs for his answer and indicated he agreed with his remarks.

A Member asked for assurance that Council will not receive a staff recommendation report prior to receiving the results of the parking study and more information on what other municipalities are doing. In response, Mr. Cribbs indicated staff are happy to respect that. He further stated the parking study will be useful however does not want to leave the impression it will be so exhaustive and cure all issues within the municipality. In response, the Mayor indicated he can appreciate Mr. Cribbs' response.

4.4 Presentation of Resolutions

Moved By Councillor Marianne Stewart

THAT Council receive Report 2021-0038 as it pertains to Second Dwelling Units Policies and Regulations (OP-AM-01-2020 and AM-04-2020);

AND THAT Committee directs Planning staff to prepare the Recommendation Report on this topic for Council's consideration once all comments have been received.

For (7): Marvin Junkin, Lisa Haun, Bob Hildebrandt, Ron Kore, Wayne Olson, Marianne Stewart, and John Wink

Carried (7 to 0)

Moved By Councillor Lisa Haun

THAT Committee receive the written correspondence as listed on the agenda;

AND THAT Committee receive the verbal presentations made by the public listed on the Agenda;

AND THAT Committee receive any e-mail comments received during the public portion of the meeting at the clerks@pelham.ca e-mail address.

For (7): Marvin Junkin, Lisa Haun, Bob Hildebrandt, Ron Kore, Wayne Olson, Marianne Stewart, and John Wink

Carried (7 to 0)

5. Adjournment

Moved By Councillor Bob Hildebrandt

THAT this Special Committee of the Whole, Public Meeting Under the Planning Act, be adjourned.

For (7): Marvin Junkin, Lisa Haun, Bob Hildebrandt, Ron Kore, Wayne Olson, Marianne Stewart, and John Wink

Carried (7 to 0)

Mayor: Marvin Junkin

Deputy Clerk: Holly Willford