

Committee of Adjustment**Minutes**

Meeting #: CofA 02/2021
Date: Tuesday, February 2, 2021
Time: 4:00 pm
Location: Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

Members Present Donald Cook
Sandra Marsh
Bernie Law

Members Absent John Klassen
Brenda Stan

Staff Present Nancy Bozzato
Holly Willford
Sarah Leach
Jason Marr
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 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

Ms. Holly Willford, Assistant Secretary Treasurer to the Committee of Adjustment advised the Committee the applicant for A12/2021P has requested an adjournment in order to satisfy concern's from the Niagara Region.

The Agent, Mr. Tod Barber confirmed the applicant is requesting an adjournment to work with the Region.

Moved By Sandra Marsh

Seconded By Bernie Law

THAT application A12/2021P be adjourned, sine die.

Carried

5. Applications for Minor Variance

5.1 A8/2021P - 596 Chantler Road

Purpose of Application

Application for relief of Section 7.7 (a) "Maximum (Accessory) Lot Coverage" – to permit a maximum (accessory) lot coverage of 2.2% and Section 7.7 (d) "Maximum (Accessory) Building Height" – to permit a maximum (accessory) building height of 4m.

Representation

The Agent Criag Rohe 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

Applicant's Comments

Mr. Craig Rohe, Agent stated the application is minor and required to facilitate an accessory structure on the property to house tools and a summer vehicle. He indicated he is in support of the staff

recommendation and is satisfied with the requested conditions. Mr. Rohe stated it is his client's intention to build the structure as per the submitted designs.

Public Comments

Ms. Holly Willford, Assistant Secretary Treasurer confirmed there are no pre-registered members of the public. She advised she checked the clerks@pelham.ca email address at 4:15 pm and confirmed no e-mails have 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 driveway is coming off Cream Street and not Chantler Road. In response, Mr. Rohe indicated that the property has two driveways. He stated the primary driveway is from Chantler Road and the secondary driveway is from Cream Street. Mr. Rohe stated to access the accessory structure the applicant would use the Cream Street access.

Moved By Bernie Law

Seconded By Donald Cook

THAT the public portion of the meeting be closed.

Carried

Moved By Bernie Law

Seconded By Sandra Marsh

Application for relief, of Section 7.7 (a) "Maximum (Accessory) Lot Coverage" – to permit a maximum (accessory) lot coverage of 2.2% and Section 7.7 (d) "Maximum (Accessory) Building Height" – to permit a maximum (accessory) building height of 4m, is hereby: GRANTED.

The above decision is based on the following reasons:

- 1. The variance is minor in nature as adequate land area remains available to handle stormwater runoff, maintain privacy, the**

existing septic system, preserve a rear yard amenity area, given the rural context and as no negative impacts are anticipated.

- 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 because it will allow for enhanced use of the rural residential property and as it allows for enhanced storage and use of the facility.**
- 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. Apply for, and obtain a building permit for the proposed garage specifying the use of either a floating slab on-grade or helical post piles for the foundation. Not strip footings or foundation walls. Alternatively, the applicant may conduct a Stage 1-2 Archaeological Assessment prepared by a licensed archaeologist and receive clearance from the Ministry of Heritage, Sport, Tourism & Culture prior to the issuance of a building permit. The Archaeological Assessment must cover the areas of the site proposed for disturbance, and be accepted by the Ministry prior to clearance of this condition. The licensed archaeologist may recommend further archaeological analysis or preservation steps be taken. No demolition, grading or other soil disturbances shall take place on the subject land prior to the issuance of a Ministry letter confirming that all archaeological resource concerns have been mitigated and meet licensing and resource conservation requirements.**

Prior to the issuance of the Building Permit:

1. **Ensure no plumbing fixtures, living space or bedrooms are provided in the building permit for the proposed garage.**

Carried

5.2 A12/2021P - 414 Welland Road

The application was adjourned.

6. Applications for Consent

6.1 B2/2021P - 160 Highway 20 East (Shops on Highway 20)

Purpose of Application

Application for consent to partial discharge of mortgage, consent to convey 3,084 square metres of land (Part 2) and together with 1616 square metres of land for an easement in perpetuity over Part 3, to the benefit of Part 2 for access

Representation

The Agent Craig Rohe 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. Bell
5. Hydro One
6. Guy Lessard

Applicant's Comments

Mr. Rohe indicated the Shops on 20 development is currently under site plan review with the Town and Niagara Region. He stated as part of the development there will be a private road that provides access to the plaza and Part 2, which is being severed for a future residential apartment building. Mr. Rohe indicated through the design of the plaza property the Niagara Region is only allowing 1 access from Highway 20, being right in

and right out. He stated when Part 2 is developed in the future it will have its access over Part 3 as an easement. Mr. Rohe indicated he supports the staff report and suggested conditions.

Public Comments

Ms. Holly Willford, Assistant Secretary Treasurer confirmed there are no pre-registered members of the public. She advised she checked the clerks@pelham.ca email address at 4:24 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

The Members has no comments.

Moved By Sandra Marsh

Seconded By Bernie Law

THAT the public portion of the meeting be closed.

Carried

Moved By Sandra Marsh

Seconded By Bernie Law

Application is made for consent to partial discharge of mortgage, consent to convey 3,084 square metres of land (Part 2) and together with 1616 square metres of land for an easement in perpetuity over Part 3, to the benefit of Part 2 for access, is hereby: GRANTED

The above decision is based on the following reasons:

- 1. The 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.**
- 2. 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.**

3. **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 Secretary-Treasurer

1. **That the Secretary-Treasurer be provided with a registrable legal description of the subject parcel, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.**
2. **That the final certification fee of \$399, 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

6.2 B3/2021P - 1435 Station Street

Purpose of Application

Application for consent to partial discharge of mortgage and consent to convey 365 square metres of land (Part 2), to be added to the abutting property to the east (Part 3).

Representation

The Agent Stephen Kaiser from Kaiser & Associates was electronically present.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Public Works
3. Town of Pelham Building Department
4. Bell

Applicant's Comments

Mr. Kaiser indicated he has reviewed the staff report and has been in discussion with the Town regarding the easement. He stated he understands the condition has been changed and is in agreement with what is being put forward. Mr. Kaiser indicated this piece of land is to facilitate a part of a road within the plan of subdivision.

Public Comments

Ms. Holly Willford, Assistant Secretary Treasurer confirmed there are no pre-registered members of the public. She advised she checked the clerks@pelham.ca email address at 4:32 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

The Members has no comments.

Moved By Bernie Law

Seconded By Sandra Marsh

THAT the public portion of the meeting be closed.

Carried

Moved By Sandra Marsh

Seconded By Bernie Law

Application is made for consent to partial discharge of mortgage and consent to convey 365 square metres of land (Part 2), to be added to the abutting property to the east (Part 3), is hereby: GRANTED

The above decision is based on the following reasons:

- 1. The 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.**

2. **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.**
3. **No objections to this proposal were received from commenting agencies or neighbouring property owners.**
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 Secretary-Treasurer

To the Satisfaction of the Director of Public Works

1. **Provide a written acknowledgment that the Owner will be responsible for payment of the front-ending contribution, payable to the Town of Pelham, for the East Fonthill storm water management system oversizing.**

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 east, 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 Secretary-Treasurer be provided with a registrable legal description of the subject parcel, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.**

3. **That the final certification fee of \$399, 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

6.3 B4/2021P - 855 Chantler Road

Purpose of Application

Application for consent to partial discharge of mortgage and consent to convey 6,127.6 square metres of land (Part 1).

Representation

The applicants 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.

Applicant's Comments

The applicants had no comments.

Public Comments

Ms. Holly Willford, Assistant Secretary Treasurer confirmed there are no pre-registered members of the public. She advised she checked the clerks@pelham.ca email address at 4:42 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 how to ensure the special zoning condition that no other residential development will occur. In response, Ms. Willford indicated this

will be a condition of the provisional consent and that the Secretary Treasurer will not issue the certificate of consent without receiving the appropriate clearance from the Planning Department. Mr. Thompson indicated he had nothing else to add. The applicant stated they are aware of the requirement and have started working on their rezoning application.

Moved By Sandra Marsh

Seconded By Bernie Law

THAT the public portion of the meeting be closed.

Carried

Moved By Bernie Law

Seconded By Sandra Marsh

Application is made for consent to convey 6,127.6 square metres of land (Part 1), is hereby: GRANTED

The above decision is based on the following reasons:

- 1. That the applicant is aware additional zoning amendments are required.**
- 2. The application conforms to the policies of the Town of Pelham Official Plan, Regional Policy Plan and Provincial Policy Statement, and with conditions fulfilled, 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. This Committee is satisfied that the application conforms to the criteria for the severance of a Surplus Farm Dwelling as stipulated in the Town of Pelham Official Plan, the Regional Policy Plan and the Provincial Policy Statement.**
- 5. No objections to this proposal were received from commenting agencies or neighbouring property owners.**
- 6. 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 Community Planning & Development

1. Obtain approval for a site-specific Zoning By-law Amendment to rezone Part 2 for agricultural purposes only, prohibiting further residential construction, as well as to address any non-compliant provisions resulting from the lot's creation. Including but limited to, minimum lot frontage, maximum building height, maximum lot coverage, and minimum setbacks. If all or some of the existing barns will be subject to demolition in order to help achieve zoning compliance on Part 1, the demolition of these structures shall be to the satisfaction of the Chief Building Official.
1. If all or some of the existing barns will be subject to demolition in order to help achieve zoning compliance on Part 1, the demolition of these structures shall be to the satisfaction of the Chief Building Official.

To the Satisfaction of the Secretary-Treasurer

1. That the Secretary-Treasurer be provided with a registrable legal description of the subject parcel, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.
2. That the final certification fee of \$399, 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 Donald Cook

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

Carried

Moved By Bernie Law

Seconded By Donald Cook

That the minutes of the January 12, 2021 Committee of Adjustment hearing be approved.

Carried

8. Adjournment

Moved By Sandra Marsh

Seconded By Bernie Law

BE IT RESOLVED THAT this Meeting of the Committee of Adjustment Hearing be adjourned until the next regular meeting scheduled for March 2, 2021 at 4:00 pm.

Carried

Don Cook, Chair

Secretary-Treasurer, Nancy J. Bozzato