

March 16, 2021

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

Re: Minor Variance Application A16/2021P
Walker Road, Pelham
Block 38, Plan 59M-476
Roll No. 2732 030 020 07143

The subject land is located on the south side of Walker Road, lying west of Rice Road with additional frontage on Rice Road and legally described above, in the Town of Pelham.

The subject land is zoned 'Residential Multiple 1 – 269' (RM1-269) in accordance with Pelham Zoning By-law 1136 (1987), as amended. The minor variance application requests relief from:

- i. **Section 30. (Exceptions) No. 269 – Section 16.4 (e) “Minimum Side Yard”** to permit a side yard of 2.3 m, whereas 3 m is required.
- ii. **Section 30. (Exceptions) No. 269 – Section 16.4 (f) “Minimum Rear Yard”** to permit a rear yard of 2.3 m for units 7 – 8 & 21, whereas 6 m is required.
- iii. **Section 6.16 (d) (i) “Ingress & Egress – Minimum 2-way Drive Aisle Width”** to permit a 2-way drive aisle width of 7 m, whereas 7.5 m is required.
- iv. **Section 6.35 (c) “Yard Encroachments – Unenclosed Porches, Balconies, Steps & Patios”** to permit deck encroachments of 3 m, whereas 1.5 m is allowed.

The proposed minor variance will help facilitate a 21-unit block townhouse development (known as *Saffron Valley Phase 1*) which is currently undergoing Site Plan Approval technical review (file SP-08-2020).

Applicable Planning Policies

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 1.1.3.4 states appropriate development standards should be promoted which facilitate *intensification, redevelopment* and compact form, while avoiding or mitigating risks to public health and safety.

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 Stage 1 – 3 Archaeological Assessment and Ministry Clearance was previously completed and obtained as part of the Saffron Meadows Phase 1-2 subdivisions, which created this block of developable land.

The proposed minor variance application has been submitted to seek relief from certain site-specific zoning provisions in order to facilitate the applicant’s preferred site design layout. 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 while meeting *Greenfield* designation and urban design policy objectives.

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 a *designated Greenfield area* and is located within a ‘Settlement Area’ according to the Growth Plan. *Designated Greenfield areas* are required to accommodate forecasted growth to this Plan’s horizon. 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.

The requested zoning provisions help facilitate an efficient medium density townhouse development by allowing larger, more usable rear yard amenity decks to be built, and upgraded architectural elevations flanking the Rice Road public realm. The reduced side yard setback will better address the Rice Road streetscape and multi-use trail fostering a stronger sense of place through built form and urban design. The reduced 2-way drive aisle width helps ensure vehicle speeds are not excessive, reduces unnecessary stormwater runoff, leaves more space for landscaping and houses and still accommodates fire and waste collection trucks. No sensitive *key natural heritage features* or deeply buried archaeological resources will be impacted by the proposed zoning relief.

Regional Official Plan (Consolidated August 2014)

The Regional Official Plan designates the subject land as ‘Designated Greenfield 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.C.5 states *Designated Greenfield Areas* will be planned as compact, complete communities by:

- a) Where permitted by scale, accommodating a range of land uses.
- b) Where limited by scale or configuration, making a significant contribution to the growth of the respective *Urban Area*.
- c) Providing opportunities for integrated, mixed land uses.
- e) Ensuring that Greenfield development is sequential, orderly and contiguous with existing built-up areas.

Policy 4.J.4 states the Region encourages private realm site design that addresses public safety, active transportation, landscaping, and human scale in buildings facing public space.

Policy 11.A.2 states the Region encourages the development of attractive, well designed residential construction that:

- c) Emphasizes the entrance.
- d) Is accessible to all persons.
- g) Provides an attractive, active transportation friendly streetscape.
- h) Contributes to a sense of safety within the public realm.
- j) Creates or enhances an aesthetically pleasing and functional neighbourhood.

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 'Secondary Plan Area' within the Fonthill Settlement Area. More specifically, the East Fonthill Secondary Plan designates this parcel as EF – Low Density Residential. Policy B1.7.7.3 outlines the permitted uses and development policies of this designation.

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.

The NPCA indicated they have no objections and Niagara Region has been involved through all previous development application on these lands and the current Site Plan Control application process.

Policy A2.3.2 Urban Character – stated objectives of this Plan include (among others):

- To enhance the *urban areas* as diverse, livable, safe, accessible and attractive communities.
- To ensure that new development areas are integrated into the fabric of the existing community in conformity with approved Secondary Plans.
- To encourage the development of neighbourhoods which are compact, pedestrian-friendly and provide a mix of housing types.
- To foster a sense of civic identity through a high standard of urban design in public and private development.

The proposed minor variances have some impact on the stated objectives of Policy A2.3.2 as they relate to streetscape and urban design matters. Particularly, the requested encroachments will actually enhance the public realm of both the multi-use trail along the eastern flank, but also the Rice Road streetscape broadly by fostering a more engaging design of unit 17 with architectural protrusions such as a bay window and other fenestrations.

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 B1.7.3.1 (East Fonthill) Development Objectives – states that the following private (and public) development objectives will be implemented by the mechanisms in the Official Plan, the implementing Zoning and Site Plan Approvals. The East Fonthill development objectives (that relate to this development) are:

- a) To ensure that the community is development with a compact urban form and at an appropriate scale that is pedestrian-oriented and fosters community interaction;
- b) To ensure a well-designed, attractive, pedestrian & bicycle-friendly community that includes an appropriate mix of housing types;
 - ✓ The subject lands are surrounded by an evolving urban area which will become very conducive to active transportation. Specifically in addition to standard sidewalks on all public streets, Walker Road supports a 2-way raised cycle track that will connect central Fonthill to the off-road trail system adjoining and branching from the west side of Rice Road throughout East Fonthill.
- c) To create a sense of identity and continuity within the community through design treatments that residents and visitors can recognize as characteristic of the Secondary Plan Area;
 - ✓ The concurrent Site Plan Approval application requires a full set of high quality architectural building Elevation Plans that form part of the Site Plan Agreement and become legally binding / registered on title.
- d) To create a complete community with a safe, healthy and functional environment that can accommodate between 6,500 and 7,500 new residents and jobs combined;
 - ✓ The proposed minor variances do not hamper the ability for East Fonthill to meet its projected growth targets.
- k) To develop a land use pattern and transportation system that supports motorized vehicular traffic, transit, cyclists and pedestrians and provides alternate transportation routes to most destinations;
 - ✓ The subject lands utilize a private laneway for vehicle access, and the reduced drive aisle width help calm traffic speeds improving safety for pedestrians despite a lack of sidewalks. The proposed zoning relief does not conflict with this policy.

Town Planning staff are of the opinion the proposed zoning relief conforms to the East Fonthill Secondary Plan policies and the Official Plan broadly.

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

The subject land is zoned 'Residential Multiple 1 – 291' (RM1-291) in accordance with Pelham Zoning By-law 1136 (1987), as amended. The minor variance application requests relief from:

- i. **Section 30. (Exceptions) No. 269 – Section 16.4 (e) “Minimum Side Yard”** to permit a side yard of 2.3 m, whereas 3 m is required.
- ii. **Section 30. (Exceptions) No. 269 – Section 16.4 (f) “Minimum Rear Yard”** to permit a rear yard of 2.3 m for units 7 – 8 & 21, whereas 6 m is required.
- iii. **Section 6.16 (d) (i) “Ingress & Egress – Minimum 2-way Drive Aisle Width”** to permit a 2-way drive aisle width of 7 m, whereas 7.5 m is required.
- iv. **Section 6.35 (c) “Yard Encroachments – Unenclosed Porches, Balconies, Steps & Patios”** to permit deck encroachments of 3 m, whereas 1.5 m is allowed.

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 |
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| 1. The variance is minor in nature. | <p>Reducing the side yard setback on unit 17 is minor overall as the dwelling positively captures the attention of the Rice Road public space and helps to foster a ‘<i>sense of place</i>’ through enhanced architectural details such as bay windows. There are no safety concerns with the requested setback and it is considered minor in nature.</p> <p>Reducing the rear yard setback for units 7-8 & 21 is minor overall and technical in nature. The original site-specific zoning did not anticipate the integrated nature of the subject lands and 1304 Rice Road to the south with connected laneways. As a result, this rear yard setback will function, be observed and operate as an interior side yard setback to the future dwelling to the south. The enhanced connectivity between these developments is far more important from a land use compatibility and urban planning design perspective. There are no negative impacts that would arise from this reduction to a 2.3 m side yard buffer.</p> <p>Normally, there might be legitimate privacy concerns associated with ever encroaching raised, rear yard decks located closer to other private rear yards. However, the requested rear yard deck encroachment backs onto designated and fenced in, environmental protection lands.</p> |

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| | <p>Reducing the 2-way drive aisle width is objectively minor as the default 7.5 m provision is arguably quite excessive for modern development standards. The default 2-way drive aisle width does not ensure a safer or more functional passage of domestic, emergency or service vehicles that are not already being achieved elsewhere with far narrower drive aisle widths with prescribed corner radii. Narrower drive aisle widths are far more conducive to strong urban environments where slow vehicle speeds are desirable and critical to the comfort and safety of the community.</p> <p>Town staff are of the opinion that the requested zoning relief are objectively minor in nature and will not cause any adverse impacts.</p> |
| 2. The variance is desirable for the development or use of the land. | <p>The zoning relief sought, both individually and collectively are desirable for the subject lands as they will allow for an adequate increase in the underserved Pelham housing supply. They will also help create a geometrically and well-connected land use & transportation system, improve the Rice Road streetscape through better urban design treatments and improve rear yard amenity spaces without unduly causing insensitive privacy concerns or adverse impacts to surrounding lands.</p> |
| 3. The variance maintains the general intent and purpose of the Official Plan. | <p>A <i>Planning Justification Brief</i> was supplied and spoke to the <i>Four Tests</i> of the <i>Planning Act</i> as well as some policies generally. Town staff are of the opinion the requested zoning relief will not compromise the general intent of the Official Plan as the reduced side yard setback and drive aisle width represent better urban design standards in an evolving compact, residential neighbourhood as well as promoting a better '<i>sense of place</i>' around public spaces. There are no sensitive natural heritage features, privacy concerns, or stormwater management issues. These matters were also addressed under the Site Plan Approval process.</p> <p>The requested deck encroachments uphold the policy objectives because private amenity areas will be provided and enhanced given the size available, stormwater drainage can be adequately conveyed without negative impacts and there are no apparent privacy concerns for the surrounding</p> |

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| | <p>neighbours. The adjacent rear yards of the dwellings along the south side of Walker Road have minimum 6 m rear yard setbacks and those land owners have not raised any concern with this application at the time of writing this <i>Report</i>.</p> <p>Planning staff concur with the <i>Planning Justification Brief</i> in that functional and adequate rear yards are still being provided for units 7-8 & 21. These dwellings' technical rear yard will integrate seamlessly with the future dwellings to the south and functionally be interior side yards.</p> <p>Planning staff are of the opinion the minor variances requested uphold the general policy intent of the Official Plan, specifically those of the East Fonthill Secondary Plan and the associated Urban Design Guidelines.</p> |
| 4. The variance maintains the general intent and purpose of the Zoning By-law. | <p>The intent of the minimum 3 m side yard (abutting a street) is to allow for a strong relationship between the public-private interface, while still maintaining a suitable buffer between the sidewalk, travelled roadway and private structures for the dwelling's privacy and serviceability of the dwelling exterior without interrupting the public space (pathway users).</p> <p>Reducing the rear yard setback for units 7-8 & 21 is in keeping with the Zoning By-law's purpose, intent and is objectively technical in nature due to the overall lotting geometry and better connected nature with the future development to the south. The original site-specific Zoning By-law unfortunately did not envision the subdivision block connecting southward. Although, it can be challenging to calibrate accurate zoning provisions for private block developments where the development plans are not fully understood and can change in the future. Ultimately, the technical rear yard for these dwellings will functionally serve as their individual side yards and this is not inherently a problem and maintains the Zoning By-laws objective as a sizeable amenity area is still provided for each unit.</p> <p>The zoning basis for requiring certain sized drive aisle widths is to ensure safe and functional passage for larger service</p> |

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| | <p>vehicles, fire trucks and domestic automobiles. The minimum aisle width if also complemented by a maximum drive aisle width standard to ensure land is not wasted, causing unnecessary stormwater runoff and distorting the desirable '<i>place-making</i>' sought between building walls which help form a comfortable urban environment. Town staff are of the opinion the reduce drive aisle width maintains the purpose and intent of the Zoning By-law.</p> <p>The intent of the deck encroachment maximums was to allow for some design flexibility by allowing outdoor recreational amenity spaces to be incorporated into the principle dwellings but without sacrificing the rear yard open space. Considering the lack of privacy concern, enhanced rear yard amenity space in conjunction with the applicant's preferred building footprints, and lack of negative impact on any sensitive natural heritage features or drainage, Planning staff consider the Zoning By-law's purpose and intent maintained.</p> <p>Overall, Planning staff are of the opinion the requested zoning relief individually and collectively maintain the intent and purpose of the site-specific Zoning By-law.</p> |
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Agency & Public Comments

On February 10, 2021, 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:

- Niagara Peninsula Conservation Authority (March 3, 2021)
 - No objections.
- Public Works Department (March 2, 2021)
 - No comments.

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

Planning Staff Comments

The subject lands are located on the south side of Walker Road, lying west of Rice Road with additional frontage on Rice Road. The property is surrounded by single detached residential lands to the north, agricultural / rural residential to the east, vacant medium density residential to the south and *Significant Woodlands* to the west.

Planning staff have reviewed the *Justification Brief* (dated October, 2020) prepared by Upper Canada Consultants, submitted with the application.

The minor variance application is a response to the desire for making a more efficient Site Plan layout, increasing the volume of housing supply, and improving the usability of the rear yard amenity areas for several dwellings. Some of the zoning relief being proposed will also enhance the public realm through better streetscaping and urban design standards such as narrowing the drive aisle width and reducing the exterior side yard along Rice Road. These measures help narrow the carriageway keeping vehicle speeds calmer, inducing peripheral *edge friction* and foster a stronger *sense of place* through a more compact built form street enclosure.

In Planning staff's opinion, the zoning relief maintains adequate landscaped open space, stormwater drainage conveyance, neighbouring privacy levels and does not negatively impact sensitive *key natural heritage features*. The proposal also conforms to the East Fonthill Secondary Plan policies and associated Urban Design Guidelines.

Planning staff are of the opinion that the proposal applies current planning and development principles dealing with appropriate *greenfield* development, making efficient use of the designated urban area lands, providing design flexibility where suitable to do so. The proposed minor variances should not negatively impact the surrounding neighbourhood with regards to land use incompatibility, 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 A16/2021P **be approved**.

Prepared by,



Curtis Thompson, B.URPI

Planner

Approved by,



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