

## Committee of Adjustment AGENDA

CofA 06/2021

June 1, 2021

4:30 pm

Town of Pelham Municipal Office - Council Chambers

20 Pelham Town Square, Fonthill

During the ongoing global pandemic, Novel Coronavirus COVID-19, the Town of Pelham Committee of Adjustment will convene meetings in compliance with Provincial directives. Attendance by all participants will be electronic. Public access to meetings will be provided via Livestream [www.youtube.com/townofpelham/live](http://www.youtube.com/townofpelham/live) and subsequent publication to the Town's website at [www.pelham.ca](http://www.pelham.ca).

Pages

1. **Attendance**
2. **Call to Order, Declaration of Quorum and Introduction of Committee and Staff**
3. **Disclosure of Pecuniary Interest and General Nature Thereof**
4. **Requests for Withdrawal or Adjournment**
5. **Applications for Minor Variance**

**5.1. A20/2021P - 50 Canboro Road**

1

1. Planning Department
2. Public Works Department
3. Building Department

Public Comments

1. Leila Murray

## **6. Applications for Consent**

### **6.1. B19/2021P - 950 Balfour Street**

12

1. Planning Department
2. Public Works Department
3. Building Department
4. Niagara Region
5. Bell

#### Pre-registered Members of the Public

1. Alice Orczy

## **7. Minutes for Approval**

27

March 2, 2021

March 16, 2021

## **8. Adjournment**

May 26, 2021

Mrs. Holly Willford, Secretary Treasurer  
Committee of Adjustment  
Town of Pelham  
Fonthill, ON L0S 1E0

**Re: Minor Variance Application A20/2021P**  
**50 Canboro Road, Pelham**  
Part of Lot 12, South Side West Canboro Street, Plan 717  
**Roll No. 2732 030 005 12900**

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The subject land is located on the south side of Canboro Road lying east of Highland Avenue, legally described above, and known locally as 50 Canboro Road in the Town of Pelham.

The subject land is zoned 'Residential 2' (R2) in accordance with Pelham Zoning By-law 1136 (1987), as amended. The minor variance application requests relief from:

- i. **Section 14.2 (d) "Minimum Front Yard"** seeking 4 m, whereas 6.5 m is required.
- ii. **Section 14.2 (e) "Minimum Interior Side Yard"** seeking 2.3 m, whereas 3 m is required.
- iii. **Section 14.2 (g) "Minimum Rear Yard"** seeking 6.5 m, whereas 7.5 m is required.

The proposal seeks to construct a two-storey addition to the existing residential dwelling.

### **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. The proposed minor variance application has been submitted to seek relief from site-specific zoning provision in order to facilitate the applicant's preferred site design layout, specifically the lot's front, side and rear yard setback requirement.

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 archaeological resource potential. However, the requested variance of lot setbacks would have a limited impact on the amount of land to be disturbed that the existing dwelling, had not already disturbed.

The proposed development seeks relief from the front, side and rear yard setback to facilitate a two-storey addition to the existing dwelling. Planning staff are of the opinion the requested zoning relief is consistent with the PPS and promotes appropriate development standards without causing adverse impacts on the use of the lands or neighbourhood.

#### 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. The vast majority of forecasted growth will be directed to *settlement areas* that have a *delineated built boundary*. 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 proposed residential addition is relatively small in scale and the proposed variances are all setback variance for the proposed two-storey addition. Planning staff are of the opinion that the requested variances conform to the Growth Plan policies and make efficient use of land available on site.

#### 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 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 'Urban Living Area / Built Boundary'.

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.

No key natural heritage features (i.e. Significant Woodlands, Provincially Significant Wetlands or valleylands etc.) are located near the subject lands.

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 variance to seek relief from lot setback requirement should not compromise drainage, privacy or sensitive natural heritage features and is in keeping with the residential character of the neighbourhood.

Policy B1.7.4.3 (viii) states that Building form and siting shall minimize the impacts of noise, wind and shadows on adjacent properties and shall enhance views of landmark buildings and all components of the Greenlands System;

The addition is proposed to be two storeys in height and will replace an existing, smaller one-storey accessory building. Based on the building form and sitting of the addition, no significant impact of noise, wind and shadows on adjacent properties is anticipated, the views of landmark buildings and all components of the Greenlands System will also be preserved.

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

The subject land is zoned ‘Residential 2’ (R2) in accordance with Pelham Zoning By-law 1136 (1987), as amended. Under the default regulations of the Zoning By-law, the minor variance application requests relief from:

- Section 14.2 (d) “Minimum Front Yard”** seeking 4 m, whereas 6.5 m is required.
- Section 14.2 (e) “Minimum Interior Side Yard”** seeking 2.3 m, whereas 3 m is required.
- Section 14.2 (g) “Minimum Rear Yard”** seeking 6.5 m, whereas 7.5 m is required.

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.	The reduced lot setback for front, side and rear yard is minor overall, as the impact on the subject property and adjacent properties is minimal given the lot context. No negative impacts are anticipated by the adjacent neighbors as adequate distance separates the nearest residential neighbour from the building site. The proposed addition is reasonably sized and is built on a narrow lot and in order to accommodate the road allowance and accessibility the applicant must reduce the required front, interior side and rear yard setback.
2. The variance is desirable for the development or use of the land.	The reduction of the minimum front, side and rear yard setback is desirable because it will allow for improved living arrangements and usage of the existing legal non-complying dwelling. The proposed addition is also compatible with existing dwelling and the built form on the street, and is therefore, able to maintain the character of the area.
3. The variance maintains the general intent and purpose of the Zoning By-law.	The variance maintains the general purpose and intent of the Official Plan because it does not compromise the neighbourhood's ability to be adequately serviced, maintain land use compatibility, while also improving the streetscape and urban design of Church Hill Street by providing a covered porch.
4. The variance maintains the general intent and purpose of the Official Plan.	The variance maintains the general intent of the Zoning By-law because the requested setback reduction recognizes the existing legal non-complying dwelling and allows for the logical, and appropriate extension of the dwelling while still maintaining adequate land for the outdoor amenity and landscaped area.

### Agency & Public Comments

On April 20, 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:

- Building Department (May 19, 2021)
  - A building permit will be required for the proposed work.
- Public Works Department (May 19, 2021)
  - That the applicant submits an overall lot grading and drainage plan to demonstrate that the drainage does not negatively impact nor rely on neighbouring properties, to the satisfaction of the Director of Public Works or his designate.
- Public Comment
  - Leila Murray – No objection to the addition unless the purpose of the addition is to create an income apartment. (April 29, 2021)

### **Planning Staff Comments**

The subject lands are located on the southwest corner of Canboro Road and Church Hill Street. The property is currently surrounded by single detached residences on all sides.

The proposed minor variance application seeks zoning relief to reduce minimum front yard setback requirement from 6.5 m to 4 m, the minimum side yard setback requirement from 3 m to 2.3 m, and the minimum rear yard setback requirement from 7.5 m to 6.5 m, in order to accommodate a two-storey addition to the existing single detached dwelling.

In considering the minimum front yard setback of the subject property, staff is of the opinion that although the minimum front yard setback will be reduced, the impact on the subject property and adjacent properties is minimal. The addition's front yard setback is in keeping with the existing legal non-conforming dwelling and is in-line with adjacent properties.

In considering the minimum side yard setback of the subject property, staff is of the opinion that although the minimum side yard setback will be reduced, the impact on the subject property and adjacent properties is minimal. The proposed two-storey addition is built on a narrow lot and in order to accommodate the road allowance and accessibility the applicant must reduce the interior side yard setback.

In considering the minimum rear yard setback of the subject property, staff is of the opinion that



although the minimum rear yard setback will be reduced, the impact on the subject property and adjacent properties is minimal. The required reduction is minimal and is accommodated with a covered porch to improve the streetscape of Church Hill Street. It is noted that the proposed building addition will not result in an additional dwelling unit, but rather provides for improved living space for the owner.

Planning staff are of the opinion that the proposal applies current planning and development principles and providing design flexibility where suitable to do so. The proposal makes efficient use of the land, will not result in overbuilding of the property, will not alter the view, sightlines or personal enjoyment of the subject property or any neighbouring properties, and should not negatively impact the surrounding neighbourhood with regards to land use incompatibility, traffic, privacy and storm water runoff. It is noted that the detailed lot grading and drainage plan will be required as part of the building permit process and will be reviewed and ultimately approved by Public Works staff.

In Planning staff's opinion, the application is consistent with the PPS and conforms to Provincial, Regional, and local plans. The requested variance is minor in nature, conforms to the general policies and intent of both the Official Plan and Zoning By-law and is appropriate for the development and use of the land.

Given this analysis, Planning staff recommend that minor variance file A21/2020P **be approved** subject to the following conditions:

**THAT** the applicant

- That Building Permits be applied for and received, prior to construction.
- That the applicant submits an overall lot grading and drainage plan to demonstrate that the drainage does not negatively impact nor rely on neighbouring properties, to the satisfaction of the Director of Public Works or his designate.

Prepared by,



Kenny Ng  
Planner, B.ES

Approved by,



Barbara Wiens, MCIP, RPP  
Director of Community Planning and Development

## Memorandum

### Public Works Department - Engineering

DATE: May 19, 2021  
TO: Kenny Ng, Planner  
CC: Holly Willford, Clerk; Sarah Leach, Deputy Clerk; Jason Marr,  
Director of Public Works  
FROM: Xenia Pasiecznik, Engineering Technologist  
RE: File A20/2021P  
50 Canboro Road

Public Works has completed a review of the minor variance application A20/2021P for relief of Pelham Zoning By-Law 1136(1987), as amended. The application is made to seek relief from the following:

- **Section 14.2 (d) “Minimum Front Yard”** – to permit a minimum front yard of 4m whereas the by-law requires 6.5m; and;
- **Section 14.2 (e) “Minimum Interior Side Yard”** – to permit a minimum interior side yard of 2.3m whereas the by-law requires 3m where there is no carport or garage attached; and
- **Section 14.2 (g) “Minimum Rear Yard”** – to permit a minimum rear yard of 6.5m whereas the by-law requires 7.5m.

Public Works has the following comments;

1. That the applicant submits an overall lot grading and drainage plan to demonstrate that the drainage does not negatively impact nor rely on neighbouring properties, to the satisfaction of the Director of Public Works or his designate.

To: Sarah Leach

Cc:

From: Dave Christensen, Building Intake/Zoning Technician  
Community Planning & Development

Date: May 19<sup>th</sup>, 2021

Subject: Building Comments on Applications to the Committee of Adjustment for  
Consents/Minor Variances – June 1<sup>st</sup>, 2021 Hearing

Comment for Re: File # A20-2021P 50 - Canboro Rd.

The building department offers the following comment,

- A building permit will be required for the proposed work.

Comment for Re: File #B19-2021P – 950 Balfour St.

The building department offers the following comment,

- Demolition permit required for existing accessory structures to be demolished greater than 10m<sup>2</sup>
- If existing Accessory structures are agricultural, no demolition permit required

Kind Regards,

David Christensen, BSc (Hons), Adv. Dip.  
Building Intake & Zoning Technician  
dchristensen@pelham.ca

**From:** [Leila Murray](#)  
**To:** [Holly Willford](#)  
**Subject:** File # A20/2021P  
**Date:** Thursday, April 29, 2021 2:46:03 PM

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I wish to register no objection to the minor variance cited in the above mentioned file #.

This is a very small dwelling and the proposed addition seems to be for the use of the current owners.

If however the intended purpose is to create an income apartment, I do object as there is insufficient parking for more residents.

Signed,  
Leila Murray  
[REDACTED] Church Hill  
Box [REDACTED]  
Fonthill ON  
L0S1E0

Sent from [Outlook](#)

May 26, 2021

Mrs. Holly Willford, Secretary Treasurer  
Committee of Adjustment  
Town of Pelham  
Fonthill, ON L0S 1E0

**Re: Consent Application B19-2021P**  
**950 Belfour Street, Pelham**  
Part of Block C, Plan 703 and Part of Lot 14 Concession 10  
**Roll No. 2732 010 015 14107**

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The subject parcel, shown as Part 1 on the attached sketch, has a frontage of 67.08m on the west side of Balfour Street, lying north of Foss Road, being Part of Block C, Plan 703 and Part of Lot 14 Concession 10 (Part 1 on sketch) in the Town of Pelham.

Application is made for consent to convey 4.16 hectares of land (Part 1), to be added to the abutting property to the north (Part 3), for agricultural use. Part 2 is to be retained for continued agricultural use.

### **Applicable Planning Policies**

#### Planning Act (Consolidated July 2016)

Section 51 (24) states that when considering the division of land, regard shall be had to the health, safety, convenience, accessibility and welfare of the present and future inhabitants of the municipality and among other things to,

- a) The development's effect on provincial matters of interest;
- b) Whether the proposed subdivision is premature or in the public interest;
- c) Whether the plan conforms to the Official Plan and adjacent plans of subdivisions, if any
- d) The suitability of the land for such purposes;
- f) The dimensions and shapes of the proposed lots;
- h) Conservation of natural resources and flood control;
- i) The adequacy of utilities and municipal services;
- j) The adequacy of school sites

Section 53 (1) states a land owner may apply for a consent and the council may, subject to this section, give a consent if satisfied that a plan of subdivision is not necessary for the proper and orderly development of the municipality.

### 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 ‘Prime Agricultural Area’ according to the PPS. Policy 2.3.1 states that Prime agricultural areas shall be protected for long-term use for agriculture.

Both parcels will continue to be used for agricultural purposes only and the proposed lot boundary adjustment will not impact surrounding agricultural uses.

Policy 2.3.4.2 states that Lot adjustments in prime agricultural areas may be permitted for legal or technical reasons.

The proposed lot adjustment is of technical nature to facilitate a boundary adjustment.

Policy 2.6.2 states that Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved.

No further development or site alteration is proposed for the subject parcel, therefore Archaeological Assessment will not be required.

### Greenbelt Plan (2017)

The subject lands are within the Greenbelt Plan’s Protected Countryside.

Policy 4.6 (e) states that Lot creation is discouraged and may only be permitted for: Minor lot adjustments or boundary additions, provided they do not create a separate lot for a residential dwelling in prime agricultural areas, including specialty crop areas, and there is no increased

fragmentation of a key natural heritage feature or key hydrologic feature.

The proposed consent application does not seek to create a separate lot for residential dwelling and there is no increased fragmentation of a key natural heritage feature or key hydrologic feature.

#### Regional Official Plan (Consolidated August 2014)

The Regional Official Plan designates the subject land as 'Unique Agricultural Area'.

Policy 5.B.8 (c) states that In the Unique Agricultural Areas, consents to convey may be permitted in accordance with the provision that The consent requested is for minor boundary adjustments or easements, complies with other policies in this Plan and does not create a separate lot for a residential dwelling and there is no increased fragmentation of a key natural heritage feature or key hydrologic feature.

The subject land is impacted by the Region's Core Natural Heritage consisting of Significant Woodland and Type 2 Fish Habitat. The proposed lot lines are located more than 50 m from the Significant Woodland and more than 120 m from a Type 2 Fish Habitat.

Regional staff did not object, nor request to be circulated the proposed application as the development aligns with Provincial and Regional policies and the potential concern for deeply buried archaeological resources and significant environmental features was addressed.

The proposed severance conforms to both consent and environmental policies as set out by the Regional Official Plan.

#### 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 'Specialty Agricultural'.

Policy B2.2.5 (Consents) states that the creation of new lots in the Specialty Agricultural designation is generally not permitted. Applications for consent may be considered by the Committee of Adjustment only in the following circumstances:



- a) The application will facilitate the conveyance of lands with natural heritage significance to a public body or non-profit entity provided the land to be conveyed will not be used for residential purposes;
- b) The application facilitates a lot addition, boundary adjustment, mortgage discharge or validation of title provided such application is minor in nature and will not create a separate lot for a residential dwelling and will not fragment any key natural heritage and hydrological feature;
- c) The application will result in the creation of a new parcel that is capable of sustaining agricultural use. In order to fulfil this intent, the severed and retained lots shall each have a minimum area of 16.2 hectares (40 acres); or,
- d) The application will result in the severance of a surplus farm dwelling where an existing dwelling is rendered surplus a result of a farm consolidation. In such cases the retained parcel shall be rezoned to prohibit future residential uses in perpetuity.

Policy D5.2.2 (Boundary Adjustments) states that A consent may be permitted for the purpose of correcting conveyances, enlarging existing lots or through acquisition by a public body, provided no new building lot is created. In reviewing an application for a boundary adjustment, the Committee of Adjustment shall be satisfied that the boundary adjustment will not affect the viability of the use of the properties affected as intended by this Plan.

Town Planning staff are of the opinion the proposed severance conforms to the local Official Plan as the lot boundary adjustment is minor in nature, no new lots will be created and that the properties' existing use will be continued.

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

Both parcels are currently zoned 'Agricultural' (A) according to the Zoning By-law. The permitted uses include:

- a) Agricultural uses including greenhouses;
- b) seasonal or permanent farm help houses on farms larger than 10 hectares;
- c) one single detached dwelling on one lot;
- d) home occupations;
- e) kennels;
- f) animal hospitals;
- g) uses, buildings and structures accessory to the foregoing permitted uses;
- h) forestry and conservation uses.

The resulting parcel configuration will continue to comply with all applicable zoning regulations.

Any future development on Parts 2-3 beyond that which is permitted under Section 7 would require a Zoning By-law Amendment or Minor Variance.

### **Agency & Public Comments**

On April 20, 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:

- Bell Canada (April 22, 2021)
  - No concerns or comments.
- Building Department (April 20, 2021)
  - Demolition permit required for existing accessory structures to be demolished greater than 10m2.
  - If existing Accessory structures are agricultural, no demolition permit required.
- Public Works Department (April 21, 2021)
  - No comments.

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

### **Planning Staff Comments**

The subject application is made for consent to convey 4.16 hectares of land (950 Balfour Street), to be added to the abutting property to the north (1000 Balfour Street), for agricultural use. The remaining lot will be retained for continued agricultural use. No new building lot will be created from this proposed boundary adjustment.

A pre-consultation meeting was held with the applicant(s) of the property and staff from the Town and Niagara Region Planning & Development Services on March 4, 2021 to discuss the subject application. In addition to the Consent Sketch, a *Planning Justification Brief* was also provided in support of the proposed development.

The subject lands are located between Foss Road and Welland Road, on the west side of Balfour Street and are surrounded by the following:

- North – Church and single detached residential
- East – Single detached residential
- South – Single detached residential

- West – Vacant Lands

Planning staff is of the opinion that the proposal applies current planning and development goals dealing with appropriate consent development. The proposed lot boundary adjustment complies with the Zoning By-law regulations and should not negatively impact the surrounding neighbourhood with regards to 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 consent file B18-2021P **be approved** subject to the following conditions:

**THAT** the applicant

- Merge Part 1 with Part 3.
- That Demolition Permits be applied for and received, prior to demolition of existing non-agricultural accessory structures that are greater than 10m<sup>2</sup>.
- Provide the Secretary-Treasurer with a registerable 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.
- Provide 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.

Prepared by,



Kenny Ng, B.ES  
Planner

Approved by,



Barbara Wiens, MCIP, RPP  
Director of Community Planning and Development

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## **Memorandum**

### **Public Works Department - Engineering**

DATE: May 19, 2021

TO: Kenny Ng, Planner

CC: Holly Willford, Clerk; Sarah Leach, Deputy Clerk; Jason Marr, Director  
of Public Works

FROM: Xenia Pasiecznik, Engineering Technologist

RE: File B19/2021P  
950 Balfour Street

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We have completed the review of the consent application B19/2021P for consent to convey 4.16 hectares of land (Part 1), to be added to the abutting property to the north (Part 3), for agricultural use. Part 2 is to be retained for continued agricultural use.

Public Works has no comments.

To: Sarah Leach

Cc:

From: Dave Christensen, Building Intake/Zoning Technician  
Community Planning & Development

Date: May 19<sup>th</sup>, 2021

Subject: Building Comments on Applications to the Committee of Adjustment for  
Consents/Minor Variances – June 1<sup>st</sup>, 2021 Hearing

Comment for Re: File # A20-2021P 50 - Canboro Rd.

The building department offers the following comment,

- A building permit will be required for the proposed work.

Comment for Re: File #B19-2021P – 950 Balfour St.

The building department offers the following comment,

- Demolition permit required for existing accessory structures to be demolished greater than 10m<sup>2</sup>
- If existing Accessory structures are agricultural, no demolition permit required

Kind Regards,

David Christensen, BSc (Hons), Adv. Dip.  
Building Intake & Zoning Technician  
dchristensen@pelham.ca

**Planning and Development Services**

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7  
905-980-6000 Toll-free: 1-800-263-7215

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**Via Email Only**

May 19, 2021

File No.: D.06.06.CS-21-0028

Holly Willford  
Town Clerk/Secretary-Treasurer  
Town of Pelham  
20 Pelham Town Square, PO Box 400  
Fonthill, ON L0S 1E0

Dear Ms. Willford:

**Re: Regional and Provincial Comments  
Consent Application  
Town File No.: B19-2021P  
Applicant: [REDACTED]  
Agent: [REDACTED]  
Address: 950 Balfour Street  
Town of Pelham**

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Regional Planning and Development Services staff have reviewed the above-noted consent application, which proposes to convey 4.16 hectares of land (Part 1), to be added to the abutting property to the north (Part 3, 7.18 hectares), for agricultural use. Part 2 (4.31 hectares) is to be retained for continued agricultural use.

A preconsultation meeting for the proposed consent application was held on March 4, 2021, with staff from the Town and Region, as well as the Agent and Owner in attendance.

The following Provincial and Regional comments are provided to assist the Committee in their consideration of the application.

**Provincial and Regional Policies**

The subject lands are designated as being within a Prime Agricultural Area, and more specifically within a Specialty Crop Area, in the Provincial Policy Statement (PPS); within the Protected Countryside, and designated Specialty Crop Area – Niagara Peninsula Tender Fruit and Grape Area in the Greenbelt Plan, and designated Unique Agricultural Area in the Regional Official Plan (ROP).

Provincial and Regional policies emphasize the protection of lands within these designations for long-term agricultural use, and recognize that agricultural land is a valuable asset that must be managed and protected. Accordingly, Provincial and Regional policies restrict lot creation in these areas. Lot boundary adjustments are permitted, subject to specific criteria. The PPS permits minor lot boundary adjustments for legal or technical reasons, which do not result in the creation of a new lot. The Greenbelt Plan and ROP permit minor lot adjustments or boundary additions provided these do not create a separate lot for a residential dwelling, and there is no increased fragmentation of a key natural heritage feature or key hydrologic feature.

The application proposes a boundary adjustment to sever Part 1 from Part 2, and merge it with Part 3. Regional staff note that this boundary adjustment will not create a separate lot, provided the consent is conditional on the merger of Parts 1 and 3. The proposal will also not result in the fragmentation of a key natural heritage or key hydrologic feature, as discussed further below. Therefore, the proposed consent application conforms to Provincial and Regional policies for lot boundary adjustments in agricultural areas.

## **Core Natural Heritage System**

The subject lands are impacted by the Region's Core Natural Heritage System (CNHS), consisting of Significant Woodland and Type 2 (Important) Fish Habitat (see attached map). As noted previously, the subject lands are also within the Protected Countryside of the Greenbelt Plan, which identifies permanent and intermittent streams as Key Hydrologic Features (KHF).

Greenbelt Plan policies require the completion of a Natural Heritage Evaluation when development and/or site alteration is proposed within 120 metres of a KHF in the Protected Countryside. Regional policies similarly require the completion of an Environmental Impact Study (EIS) when development and/or site alteration is proposed within 50 metres of Significant Woodland and 15 metres of Type 2 Fish Habitat.

The proposed lot line of Part 1 is located more than 50 metres from Significant Woodland, and more than 120 metres from Type 2 Fish Habitat/KHF. Further, the proposed boundary adjustment is not considered "development" under the PPS or ROP, and no site alteration is proposed. As such, no environmental studies are required, and Regional Environmental Planning staff are satisfied that the proposed consent application is consistent with Provincial and Regional environmental policies.

Please note that the Niagara Peninsula Conservation Authority (NPCA) continues to be responsible for the review and comment on planning applications related to their regulated features. As such, the NPCA should continue to be consulted with respect to their comments and permit requirements pursuant to Ontario Regulation 155/06.

## **Archaeological Potential**

The PPS and ROP provide direction for the conservation of significant cultural heritage and archaeological resources. Specifically, Section 2.6.2 of the PPS and Policy 10.C.2.1.13 of the ROP state that development and site alteration are not permitted on lands containing archaeological resources or areas of archaeological potential, unless significant archaeological resources have been conserved.

Based on the Ministry of Heritage, Sport, Tourism and Culture Industries' (MHSTCI) Criteria for Evaluating Archaeological Potential, the subject lands exhibit high potential for discovery of archeological resources due to their proximity (within 300 metres) to several past and present watercourses. However, a boundary adjustment is not considered "development" under the PPS or ROP, and no site alteration is proposed as part of the current application; therefore an archeological assessment is not required at this time. Please note however that any future development or site alteration on the subject lands requiring *Planning Act* approval will require the completion of an archaeological assessment.

## **Private Servicing**

The subject property currently contains a residential dwelling and dog kennel business. According to Regional records, the sewage system servicing the residential dwelling was installed in 1986, and approved by the Regional Health Services Department. The septic tank and tile bed are located west of the dwelling, and there were no visual defects found with the sewage system at the time of Regional Private Sewage Systems (PSS) staff's inspection. The sewage system will be wholly contained within Part 2, and there is enough usable land on this parcel to replace the sewage system in the future, if required.

No records were found for the sewage system serving the dog kennel business. The septic tank was exposed north of the kennel building. No defects were observed at the time of PSS staff's inspection. The exact age, size and location of the tile bed is unknown, and therefore, any future changes or increase in sewage flows would require the installation of a new sewage system meeting current Ontario Building Code requirements. It appears the existing sewage system will be wholly contained on Part 2, and the property contains enough usable land for a replacement system in the future.

Therefore, PSS staff have no objection to the application as submitted.

## **Conclusion**

In conclusion, Regional staff have no objection to this consent application from a Provincial or Regional perspective, subject to the satisfaction of any local requirements, and conditional on Part 1 merging in title with Part 3. Subject to the merger, the



May 19, 2021

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proposal is consistent with the PPS, and conforms to Provincial Plans and the Regional Official Plan from a Provincial and Regional perspective.

Please send a copy of the staff report and notice of the Committee's decision on this application.

If you have any questions related to the above comments, please contact me at [Amy.Shanks@niagararegion.ca](mailto:Amy.Shanks@niagararegion.ca), or Britney Fricke, MCIP, RPP, Senior Development Planner at [Britney.Fricke@niagararegion.ca](mailto:Britney.Fricke@niagararegion.ca).

Kind regards,

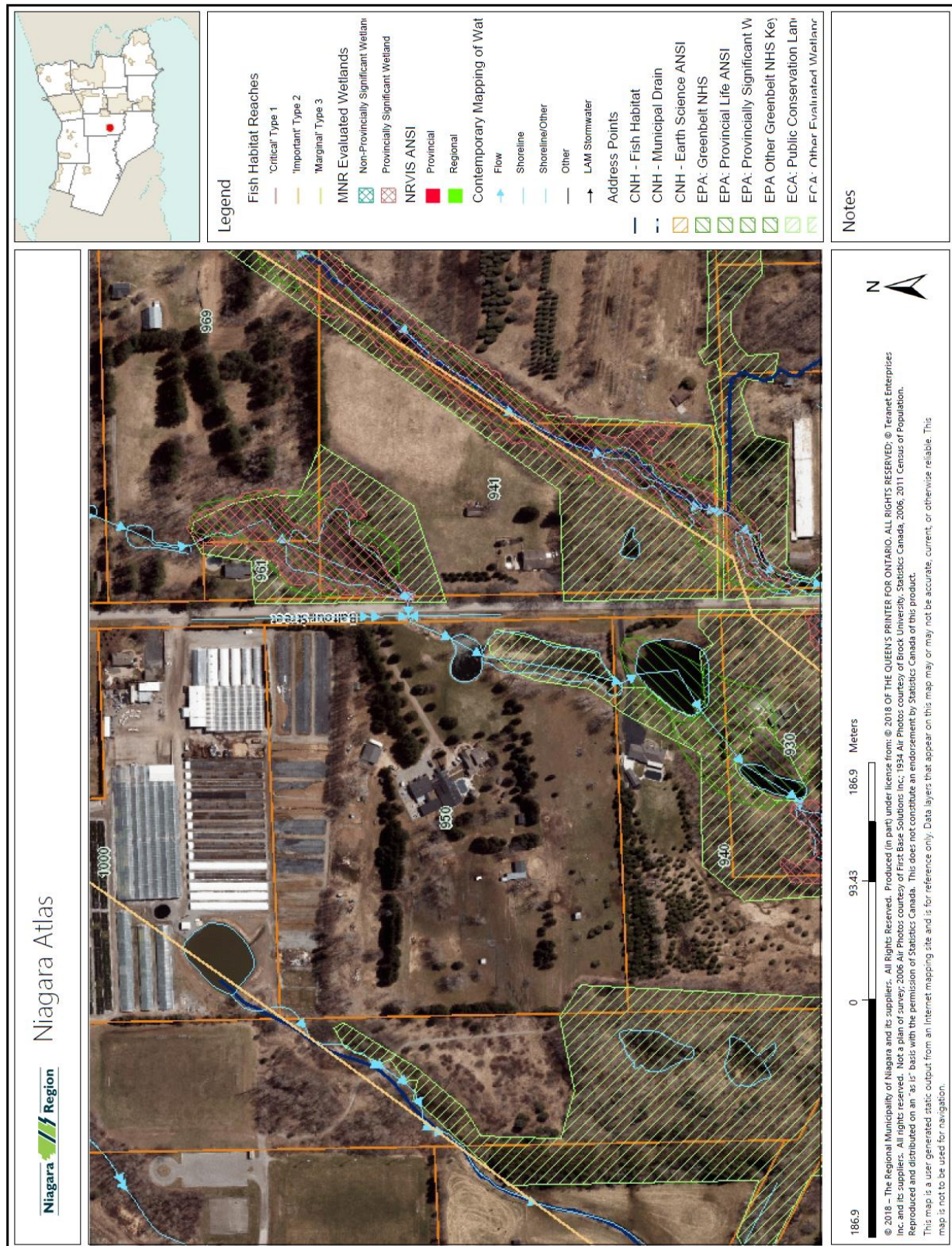


Amy Shanks  
Development Planner

cc: Britney Fricke, MCIP, RPP, Senior Development Planner, Niagara Region  
Lori Karlewicz, Planning Ecologist, Niagara Region  
Caitlin Goodale, Private Sewage System Inspector, Niagara Region  
Shannon Larocque, MCIP, RPP, Senior Planner, Town of Pelham

Appendix: Core Natural Heritage Features Mapping

## Appendix: Core Natural Heritage Features Mapping



**From:** [Gordon, Carrie](#)  
**To:** [Sarah Leach](#)  
**Subject:** RE: Committee of Adjustment Notice of Hearing - June 1, 2021 - 905-21-175 - 950 Balfour Street, Pelham  
**Date:** Thursday, April 22, 2021 1:40:33 PM

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Dear Sarah

Re: Conveyance Application

Subsequent to review of the application at 950 Balfour Street, Bell Canada's engineering department have determined that there are no concerns or comments at this time.

If you have any questions regarding this response, please do not hesitate to contact me.

Best regards,

*Carrie Gordon*



Associate, External Liaison  
Right of Way Control Centre  
140 Bayfield St, Fl 2  
Barrie ON, L4M 3B1  
T: 705-722-2244/844-857-7942  
F :705-726-4600

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**From:** Sarah Leach <SLeach@pelham.ca>  
**Sent:** Tuesday, April 20, 2021 8:30 AM  
**To:** Development Planning Applications <devtplanningapplications@niagararegion.ca>; Amy.Shanks@niagararegion.ca; ROWCC <rowcentre@bell.ca>; Nicholas Godfrey <ngodfrey@npca.ca>  
**Subject:** [EXT]Committee of Adjustment Notice of Hearing - June 1, 2021

Good morning,

Attached, please find the notice of hearing for file B19-2021P – 950 Balfour Street. Also included is the planning brief, regional sewage form and receipt of regional fees.

Thank you,  
Sarah



**Sarah Leach, BA.**

Administrative Assistant to the Clerk

Town of Pelham

T: 905-892-2607 x322 | E: sleach@pelham.ca

20 Pelham Town Square | PO Box 400 | Fonthill, ON | L0S 1E0

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**Committee of Adjustment**  
**Minutes**

**Meeting #:** Special CofA 01/2021  
**Date:** Tuesday, March 16, 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  
Curtis Thompson  
Derek Young

**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 4:15 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 stated no requests for withdrawal or adjournment have been made.

#### **5. Applications for Minor Variance**

##### **5.1 A13/2021P - 162 Port Robinson Road (Block 1, Plan 59M-481)**

##### **Purpose of Application**

Application for relief of By-Law 4138(2019) RM1-291 General Provision Section 6.35 (c) "Yard Encroachments – Unenclosed Porches, Balcony, Steps or Patio" – to permit an unenclosed porch, balcony, step or patio of 1.5m for Units 31-36 and 54-60 from the front lot line or exterior side lot line whereas the by-law requires 2m; By-Law 4138(2019) RM1-291 General Provision Section 6.35 (c) "Yard Encroachments – Unenclosed Porches, Balcony, Steps or Patio" – to permit an unenclosed porch, balcony, step or patio of 2.2m for Units 1-19 from the rear lot line whereas the by-law requires 4.5m; and By-Law 4138(2019) RM1-291 Section 16.4 (h) "Maximum Exterior Side Yard" – to permit a maximum exterior side yard of 7.5m for Units 44 & 45 and 7m for Unit 69 whereas the by-law requires 5m.

##### **Representation**

The Agent, William Heikoop, from Upper Canada Consultants was electronically present.

##### **Correspondence Received**

1. Town of Pelham Planning Department
2. Town of Pelham Public Works
3. Niagara Region
4. NPCA

##### **Applicant's Comments**

The Agent, Mr. William Heikoop, provided a brief presentation to further explain the application. A copy of the presentation is on file with the Clerk. Mr. Heikoop advised that the proposed development is located within the Saffron Meadows Phase 3 Draft Plan of Subdivision which was approved along with a zoning by-law amendment in 2019. Mr. Heikoop indicated that this townhouse development, formally known as Lavender Fields, has



recently received Site Plan Approval from Town Council. Mr. Heikoop expressed his satisfaction that the concerns of the Public Works department regarding the impact of drainage is no longer an issue. He indicated that the proposed changes will not affect the rear yard apron grade.

### **Public Comments**

Ms. Holly Willford, Assistant Secretary Treasurer indicated she checked the [clerks@pelham.ca](mailto:clerks@pelham.ca) email address at 4:38 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**

Two Members commented that the staff report and agent presentation adequately addressed all anticipated comments and concerns.

The Chair asked for the actual distance between the property line and curb on Port Robinson Road with regard to units 59 and 60. In response, the Agent, Mr. Heikoop provided the estimate of 7.5 metres. The Chair expressed concern that if a driver were to inadvertently jump the curb, they would come close to the front porch. Furthermore, he agreed that it is nice to have a consistent lot line, however, he identified this particular location as appearing tighter than units to the east.

The Chair indicated that although he is not against granting the 1.5 metres, he would prefer the distance be greater. He expressed concern with the reduction of the rear yard setback from 4.5 metres to 2.2 metres for the rear lot line of units 1 to 19. The Chair sought confirmation that the southerly edge of the porch would be 1.2 metres from the property line if the variance was granted. In response, Mr. Heikoop identified that the closest deck to the property line is 2.2 metres, which is only applicable to units 15 to 19; the balance of units 1 to 14 is approximately 3.3 metres. Mr. Heikoop stated that the application was brought forth this way to avoid multiple revisions for each single block. Mr. Heikoop shared his screen and identified the distance on the site plan.

The Chair conveyed concern regarding the dimensions from ground level to the top of the deck. He suggested that anything over 1 metre in height would allow individuals using the trail to view into the patio door of the town houses. Mr. Heikoop indicated the height of the patio decks vary. He

stated that in his opinion, if the patio door or window was at grade or exactly 1 metre in height, the interior would still be visible to those utilizing the trail. The Chair further expressed his safety concern, indicating a lack of privacy to the homeowner. He stated that a greater distance between the rear deck and property line would allow for the potential of landscape screening to obstruct visualization.

The Chair asked how the water course was going to be maintained in the future. He also asked about access to the trail, noting the absence of a gated fence. Mr. Heikoop confirmed that direct gate access is not proposed. He stated that there will be a pedestrian connection at the dead end of Street D, connecting the existing Saffron Meadows Condominium to the new Lavender Fields Condominium. In addition, there will also be a pedestrian connection alongside Block E connecting to the trail.

The Chair indicated he was not in favor of reducing the rear yard setback even though it appeared to only be applicable to units 15 to 19.

A Member expressed concern that reducing the front lot line to 1.5 metres would result in snow being ploughed onto the front porch of the homes during winter operations. Mr. Heikoop responded that there is approximately 6 metres of space before the porch for snow storage which in his opinion is sufficient.

**Moved By** Bernie Law

**Seconded By** Sandra Marsh

**THAT the public portion of the meeting be closed.**

**Carried**

**Moved By** Bernie Law

**Seconded By** Sandra Marsh

**Application for relief of Section RM1-291 General Provisions Section 6.35 (c) “Yard Encroachments – Unenclosed Porches, Balconies, Steps & Patios” to permit encroachments of not less than 1.5 m from a front lot line or exterior side lot line, whereas 2 m is required, for units 31-36 and 54-60, is hereby: GRANTED**

**The above decision is based on the following reasons:**

- 1. The variance is minor in nature.**



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 they will further help to active the streetscape.
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. None

Application for relief of Section RM1-291 General Provisions Section 6.35 (c) "Yard Encroachments – Unenclosed Porches, Balconies, Steps & Patios" to permit encroachments of not less than 2.2 m from a rear lot line, whereas 4.5 m is required, for units 1-19, is hereby:  
**GRANTED**

The above decisions are based on the following reasons:

1. The variance is minor in nature.
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 they will further help to active the streetscape.
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. **None**

**Application for relief of Section RM1-291 Section 16.4 (h) “Maximum Exterior Side Yard” to permit a maximum exterior side yard of 7.5 m for units 44-45 and 7 m for unit 69, is hereby: GRANTED**

**The above decisions are based on the following reasons:**

1. **The variance is minor in nature.**
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 they will further help to active the streetscape.**
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. **None**

**Carried**

## **5.2 A14/2021P - 9 John Street**

### **Purpose of Application**

Application for relief of Section 13.2 (c) "Maximum Lot Coverage" to permit a maximum lot coverage 40% whereas the by-law allows 30% and whereas the property received a minor variance approval to allow 32.04%

### **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

### **Applicant's Comments**

The Agent, Mr. Ethan Laman, advised that this application was brought forth to the Committee of Adjustment in September 2020 where a maximum lot coverage of 32.04% was granted. Mr. Laman indicated that due to a conversion error, this percentage was deemed insufficient to accommodate the proposed dwelling. In addition, Mr. Laman stated that additional lot coverage is being sought to accommodate a future accessory building.

### **Public Comments**

Ms. Holly Willford, Assistant Secretary Treasurer indicated she checked the [clerks@pelham.ca](mailto:clerks@pelham.ca) email address at 4:56 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 what size the accessory structure would equate too, given the request for additional lot coverage. The Agent, Mr. Laman, indicated 24.75 square metres or 266.6 square feet. The Member inquired if an accessory structure of that size would require a building permit. Mr. Curtis Thompson, Town Planner, responded that any structure exceeding 10 square metres, being 108 square feet, would require a building permit under the *Ontario Building Code*. The Member recommended a condition

be added requiring a building permit prior to the construction of an accessory structure.

A Member expressed concern regarding drainage, noting that little vacant land will remain to absorb water after the dwelling is built. The Member indicated that drainage from the property to the west flows down to John Street. In addition, water is discharged from the rear eavestrough of 9 John Street into the backyard. The Member sought clarification as to when a drainage plan is required.

The Chair recalled that upon granting the original conveyance, a condition was imposed requiring the submission of a drainage plan. The Chair asked how water was being drained from the first lot, as water appears to be flowing from the west, toward 9 John Street. Additionally, the Chair asked if the drainage was in accordance with the plan submitted at building permit issuance. Mr. Thompson could not confirm if 7 John Street had received final grading approval. To address a Member's earlier comment, Mr. Thompson confirmed that a proposed grading plan will be required for building permit issuance of 9 John Street. He also confirmed that lot coverage does impact drainage; however, indicated that it is not a perfect measurement.

A Member stated that 40% lot coverage is excessive due to drainage concerns. The Chair expressed difficulty in increasing the maximum lot coverage to 40% for this application. The Chair asked the Agent if he would be willing, on behalf of his client, to consider 36.2% lot coverage. A Member supported the recommendation of the Chair.

Craig Rohe, Senior Planner from Upper Canada Consultants, suggested that the discussion had applied to an application previously heard by this Committee. Mr. Rohe reiterated that this application seeks to correct a conversion error. Mr. Rohe stated the desire to build in flexibly to accommodate additional lot coverage for the purpose of an accessory structure such as a shed.

Mr. Rohe asked for clarification with regard to Committee changing the criteria of the application. Ms. Holly Willford, Assistant Secretary-Treasurer, replied that the Committee may approve what is requested. Alternatively, the Committee may choose to grant a variance closer to that required in the Zoning By-law.

A Member expressed concern that no ditches exist on Stella Street. The Chair suggested that this application may not be minor, as water run-off

will effect existing residents and future purchasers. Mr. Derek Young, Manager of Engineering, confirmed there is an existing catch basin on the corner of John Street and Stella Street. Mr. Young indicated that a swale used to exist along Stella Street, however, it has naturally diminished over time. To address the concerns of the Committee, Mr. Young suggested a condition be added requesting the grading be re-directed to the catch basin noted above at the owner's expense.

The Chair proposed a condition to the satisfaction of the Director of Public Works that a revised lot grading and drainage plan directing drainage to the catch basin be submitted. In addition, he proposed a condition that improvements to the swales and/or ditches on Stella Street and John Street be made at the owners expense. Further, a Member proposed condition that all necessary building permits be obtained for any future accessory structure exceeding 10 square metres. All members agreed to the proposed conditions.

**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 for relief of Section 13.2 (c) "Maximum Lot Coverage" to permit a maximum lot coverage 40% whereas the by-law allows 30% and whereas the property received a minor variance approval to allow 32.04%, is hereby: GRANTED**

**The above noted decision is based on the following reasons:**

- 1. The variance is minor in nature as it will continue to maintain a reasonably sized and desirable rear yard amenity area while providing more design flexibility.**
- 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 it allow more design flexibility.**
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 be obtained for any future accessory structure exceeding 108 square feet.**
2. **To the satisfaction of the Director of Public Works, prior to issuance of any building permits:**
  1. **Provide a revised lot grading and drainage plan directing drainage to the existing catch basin and to provide for improvements to the swales and/or ditches on Stella Street and John Street, and the applicant shall bear all costs associated with such.**

**Carried**

### **5.3 A15/2021P - 702 Sumbler Road**

#### **Purpose of Application**

Application for relief of Section 7.7 (a) "Maximum (Accessory) Lot Coverage" – to permit a maximum (accessory) lot coverage of 2.5% whereas the by-law or allows 1%; and Section 7.7 (d) "Maximum Building Height" – to permit a maximum building height of 6.1m whereas the by-law allows 3.7m.

## **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. Niagara Region
4. NPCA

## **Applicant's Comments**

The Agent, Mr. Ethan Laman, advised that his client is proposing to build a storage unit to house large items. Mr. Laman noted that his client has conducted an archeological assessment.

## **Public Comments**

Ms. Holly Willford, Assistant Secretary Treasurer indicated she checked the [clerks@pelham.ca](mailto:clerks@pelham.ca) email address at 5:29 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 there was an existing entrance to the property from Balfour Street. The Agent, Mr. Laman, confirmed there was no existing entrance and that any culvert and driveway work would require an entrance permit.

A Member asked if multiple entrances were permitted on a corner lot. Mr. Derek Young, Manager of Engineering, confirmed that corner lots are permitted to have limited additional accesses.

A member indicated that the proposal would be an asset to the Town.

The Chair expressed concern that the proposed storage facility may be used for a future enterprise. The Chair indicated that proposed accessory buildings in an Agricultural Zone are meant to support viable farm operations. He indicated that this proposed size of the building is large in

relation to the property size. In response, Mr. Laman assured that his client plans to use the building for storage purposes.

**Moved By** Bernie Law

**Seconded By** Sandra Marsh

**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 2.5% whereas the by-law or allows 1%, is hereby: GRANTED**

**The above noted decision is based on the following reasons:**

- 1. The variance is minor in nature given the rural character of the area.**
- 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 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. That all necessary building permits are required prior to construction commencing, to the satisfaction of the Chief Building Official, and shall not be approved for living accommodations or plumbing within the accessory building.

**Prior to Building Permit:**

1. **To the Satisfaction of the Director of Community Planning and Development**
  1. Amend the building Elevation Plans to remove all overhead door(s) on the east / west walls and relocate them onto the north wall, congruent with the current proposed driveway alignment, as well as provide a symmetrically proportionate amount of glazing to the building's mass on the east façade
  2. Obtain clearance from the Ministry of Heritage, Sport, Tourism & Culture Industries for the Stage 1 – 2 Archaeological Assessment, prepared by Detritus Consulting Limited (dated December 23, 2020), and that a copy of the Ministry's acknowledgement letter be provided to the Region. If the Ministry requires further archaeological work to be completed prior to acknowledging this Report, these Report(s) must also be submitted to and acknowledged by the Ministry, to the satisfaction of the Region, prior to clearance of this condition. No demolition, grading or other soil disturbances shall take place on the subject lands prior to the issuance of clearance letter from the Ministry through Niagara Region.
  3. Provide a revised Site Plan illustrating the study area shown on Figure 4 of the Stage 1 – 2 Archaeological Assessment, prepared by Detritus Consulting.
2. **To the Satisfaction of the Director of Public Works**
  1. Obtain approval for a Driveway Entrance and Culvert Permit for the construction or modification of all new or existing driveway entrances. Installation of driveway entrances shall be in accordance with Town standards and the applicant shall bear all costs associated with such.
3. **To the Satisfaction of the Niagara Region**
  1. Submit a Landscape Plan prepared by a qualified professional illustrating the restoration of the 30 m vegetated protection

**zone adjacent to the development footprint, including all proposed construction, grading and site alteration**

- 2. Ensure no plumbing or living spaces be provided within the accessory building at the time of building permit, and that a new sewage system be installed to service the property, meeting all requirements of the Ontario Building Code.**

**Carried**

#### **5.4 A16/2021P - Block 38, Plan 59M-476**

##### **Purpose of Application**

Application is made for relief, to construct townhomes, from: Section 30 (Exemptions) No. 269 - Section 16.4 (e) "Minimum Side Yard" – to permit a minimum side yard of 2.3m whereas the by-law requires 3m; and Section 30 (Exemptions) No. 269 - Section 16.4 (f) "Minimum Rear Yard" – to permit a minimum rear yard of 2.3m (Units 8-7 and 21) whereas the by-law requires 6.0m; Section 6.16 (d) (i) "Ingress and Egress – Minimum 2-way Drive Aisle Width" – to permit a minimum private driveway (condominium road) for ingress and egress of 7.0m whereas the by-law requires 7.5m; and Section 6.35 (c) "Yard Encroachments – Unenclosed Porches, Balconies, Steps or Patios" – to permit a deck encroachment of 3.0m whereas the by-law allows 1.5m.

##### **Representation**

The Agent, Mr. Craig Rohe, from Upper Canada Consultants was electronically present.

##### **Correspondence Received**

1. Town of Pelham Planning Department
2. Town of Pelham Public Works
3. NPCA
4. Upper Canada Consultants

##### **Applicant's Comments**

The Agent, Mr. Craig Rohe, provided a brief presentation to further explain the application. A copy of the said presentation is on file with the Clerk.

## **Public Comments**

Ms. Holly Willford, Assistant Secretary Treasurer indicated she checked the [clerks@pelham.ca](mailto:clerks@pelham.ca) email address at 5:53 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 sought clarification as to whether the minimum side yard of 2.3 metres applied to all units or only unit 17. In addition, the Member requested clarification if the rear yard encroachment applied to all units. The Agent, Mr. Rohe, confirmed that unit 17 is the only unit requiring relief. Mr. Rohe also confirmed that the encroachment applies to all units.

A Member voiced no objection to the application.

The Chair sought clarification with regard to the location of the rear yard on the sketch. Mr. Rohe clarified that the front yard is the frontage on Walker Road and perpendicular to that is the southerly lot line which is the rear yard. Mr. Rohe stated that the way the development is set up with the adjacent property to the south, it creates a side by side configuration. Mr. Rohe advised that the variance would result in an overall consistent lotting fabric within the development.

The Chair voiced concern with regard to reducing the road allowance. He continued to note that he is satisfied that the laneways, Street A and Street B, will never be dedicated as public highways under the *Highway Traffic Act*.

**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 for relief of 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, is hereby: GRANTED**

**The above noted decision is based on the following reasons:**

- 1. The variance is minor in nature and there are no safety concerns.**
- 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 they will allow for an adequate increase in the underserved Pelham housing supply.**
- 5. No objections were received from commenting agencies or abutting property owners.**
- 6. This application is granted without prejudice to any other application in the Town of Pelham.**
- 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. None.**

**Application for relief of Section (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, is hereby: GRANTED**

**The above noted decision is based on the following reasons:**

- 1. The variance is minor in nature as there are no negative impacts that would arise.**
- 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 they will allow for an adequate increase in the underserved Pelham housing supply.
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. None

**Application for relief of 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, is hereby: GRANTED**

The above noted decision is based on the following reasons:

1. The variance is minor in nature as there are no safety concerns.
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 help create a geometrically and well-connected land use & transportation system.
5. No objections were received from commenting agencies or abutting property owners.
6. This application is granted without prejudice to any other application in the Town of Pelham.
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. None**

**Application for relief of Section 6.35 (c) “Yard Encroachments – Unenclosed Porches, Balconies, Steps & Patios” to permit deck encroachments of 3 m, whereas 1.5 m is allowed, is hereby:  
GRANTED**

**The above noted decision is based on the following reasons:**

- 1. The variance is minor in nature as there are no privacy concerns.**
- 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 improve rear yard amenity spaces without unduly causing insensitive privacy concerns or adverse impacts to surrounding lands**
- 5. No objections were received from commenting agencies or abutting property owners.**
- 6. This application is granted without prejudice to any other application in the Town of Pelham.**
- 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. None**

**Carried**

## **6. Applications for Consent**

### **6.1 B15/2021P - 1304 Rice Road**

#### **Purpose of Application**

Application is made for consent to convey an easement in perpetuity over Parts 3 and 4, to the benefit of Part 1 for permanent sanitary and storm water services and consent to convey a temporary easement over Parts 2 and 3, to the benefit of Part 1 for temporary turning access. Parts 2, 3, 4 and 5 are to be retained for future residential development.

#### **Representation**

The Agent, Mr. Craig Rohe, from Upper Canada Consultants was electronically present.

#### **Correspondence Received**

1. Town of Pelham Planning Department
2. Town of Pelham Public Works
3. NPCA
4. Upper Canada Consultants

#### **Applicant's Comments**

The Agent, Mr. Craig Rohe, provided a brief presentation to further explain the application. A copy of the said presentation is on file with the Clerk.

#### **Public Comments**

Ms. Holly Willford, Assistant Secretary Treasurer indicated she checked the [clerks@pelham.ca](mailto:clerks@pelham.ca) email address at 6:06 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 expressed support of the application. No additional comments were made.

**Moved By** Bernie Law

**Seconded By** Sandra Marsh

**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 an easement in perpetuity over Parts 3 and 4, to the benefit of Part 1 for permanent sanitary and storm water services and consent to convey a temporary easement over Parts 2 and 3, to the benefit of Part 1 for temporary turning access; is hereby GRANTED**

**The above decision is subject to the following conditions:**

**To the Satisfaction of the Director of Public Works**

- 1. Confirm that no existing utilities cross the proposed new lot line. Should any existing services conflict with the lot line, the applicant shall be responsible for costs associated with their relocation and / or removal.**

**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.**

**This 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.**

**Carried**

**7. Minutes for Approval**

**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 April 7, 2021 at 4:00 pm.**

**Carried**

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Don Cook, Chair

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Secretary-Treasurer, Nancy J. Bozzato

**Committee of Adjustment**  
**Minutes**

**Meeting #:** CofA 03/2021  
**Date:** Tuesday, March 2, 2021  
**Time:** 4:00 pm  
**Location:** Town of Pelham Municipal Office - Council Chambers  
20 Pelham Town Square, Fonthill

Members Present      Donald Cook  
                                 John Klassen  
                                 Bernie Law

Members Absent      Sandra Marsh  
                                 Brenda Stan

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 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 advised there were no requests for withdrawal or adjournment, however indicated the Committee may wish to proceed with hearing the Station Street application first then proceeding to the Metler Road consent applications followed by the Metler Road minor variance applications.

The Chair agreed and stated he wished to have files B7, B8, B9 and B10/2021P to be heard concurrently. The Committee unanimously agreed.

#### **5. Applications for Consent**

##### **5.1 B7/2021P - 1409 Station Street (Part 1)**

##### **Purpose of Application**

Applications B7/2021P, B8/2021P, B9/2021P and B10/2021P were heard concurrently.

Application B7/2021P for consent to consent to partial discharge of mortgage, new mortgage or charge and consent to convey 5,622.9 square metres of land (Part 7), to be added to the abutting property to the east (Part 9).

Application B8/2021P for consent to partial discharge of mortgage, new mortgage or charge and consent to convey 2,381.1 square metres of land (Part 5), to be added to the abutting properties to the east (Parts 8 and 9).

Application B9/2021P for consent to partial discharge of mortgage, new mortgage or charge and consent to 184.9 square metres of land (Part 6), to be added to the abutting properties to the east (Parts 8 and 9).

Application B10/2021P for consent to partial discharge of mortgage, new mortgage or charge and consent to convey 8,322 square metres of land (Part 8), to be added to the abutting property to the east (Part 9).

##### **Representation**

The Agent, Matt Kernahan 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

#### Public Comments

##### 1. Stephen Kaiser

#### **Applicant's Comments**

The Agent indicated he had no comments and stated his client agrees with the suggested conditions.

#### **Public Comments**

Ms. Holly Willford, Assistant Secretary Treasurer stated there were no pre-registered members of the public to speak. Ms. Willford indicated she checked the [clerks@pelham.ca](mailto:clerks@pelham.ca) email address at 4:19 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 Committee members made no comments.

**Moved By** John Klassen

**Seconded By** Bernie Law

**THAT the public portion on the meeting be closed.**

**Carried**

**Moved By** John Klassen

**Seconded By** Bernie Law

**Application B7/2021P for consent to consent to partial discharge of mortgage, new mortgage or charge and consent to convey 5,622.9 square metres of land (Part 7), to be added to the abutting property to the east (Part 9), is hereby: GRANTED**

**Application B8/2021P for consent to partial discharge of mortgage, new mortgage or charge and consent to convey 2,381.1 square**

**metres of land (Part 5), to be added to the abutting properties to the east (Parts 8 and 9), is hereby: GRANTED**

**Application B9/2021P for consent to partial discharge of mortgage, new mortgage or charge and consent to 184.9 square metres of land (Part 6), to be added to the abutting properties to the east (Parts 8 and 9), is hereby: GRANTED**

**Application B10/2021P for consent to partial discharge of mortgage, new mortgage or charge and consent to convey 8,322 square metres of land (Part 8), to be added to the abutting property to the east (Part 9), 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 Chief Building Official**

- 1. Remove all existing accessory buildings on Part 7, if any structure exceeds 10 m<sup>2</sup> in area, a Demolition Permit shall be obtained and closed. (Application B7/2021P)**
- 2. Remove all existing accessory buildings on Part 6, if any structure exceeds 10 m<sup>2</sup> in area, a Demolition Permit shall be obtained and closed. (Application B9/2021P)**

**To the Satisfaction of the Director of Public Works**

- 1. Confirm that no existing utilities cross the proposed new lot line. Should any existing services conflict with the lot line, the applicant shall be responsible for costs associated with their relocation and / or removal. (Each application – B7/2021P, B8/2021P, B9/2021P and B10/2021P)**
- 2. 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. (Each application – B7/2021P, B8/2021P, B9/2021P and B10/2021P)**

**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 (Part 9 on 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. 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. (Application B7/2021P)**
- 2. Obtain final certification of consent file: B10-2021P (Part 8) and ensure that the necessary transfer has been completed and certified by the Land Registry Office, prior to the issuance of the final certificate of consent file B8-2021P, to the satisfaction of the Secretary Treasurer of the Committee of Adjustment. (Application B8/2021P)**

3. 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 (Part 8 and 9 on 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. 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. (Application B8/2021P)
4. Obtain final certification of consent file: B10-2021P (Part 8) and ensure that the necessary transfer has been completed and certified by the Land Registry Office, prior to the issuance of the final certificate of consent file B9-2021P, to the satisfaction of the Secretary Treasurer of the Committee of Adjustment. (Application B9/2021P)
5. 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 (Part 8 and 9 on 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. 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. (Application B9/2021P)

6. 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 (Part 9 on 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. 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. (Application B10/2021P)
7. 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. (Each application – B7/2021P, B8/2021P, B9/2021P and B10/2021P)

**Carried**

**5.2 B8/2021P - 1411 Station Street (Part 5)**

Applications B7/2021P, B8/2021P, B9/2021P and B10/2021P were heard concurrently.

**5.3 B9/2021P - 1413 Station Street (Part 6)**

Applications B7/2021P, B8/2021P, B9/2021P and B10/2021P were heard concurrently.

**5.4 B10/2021P - 1415 Station Street (Part 8)**

Applications B7/2021P, B8/2021P, B9/2021P and B10/2021P were heard concurrently.



## **5.5 B5/2021P - 614 Metler Road (Part 1)**

### **Purpose of Application**

Applications B5/2021P and B6/2021P were heard concurrently.

Application B5/2021P for consent to convey 4,046.86 square metres of land (Part 1),

Application B6/2021P for consent to convey 4,046.86 square metres of land (Part 3).

### **Representation**

The Owner was electronically present.

### **Correspondence Received**

1. Town of Pelham Planning Department
2. Town of Pelham Public Works
3. Town of Pelham Building Department
4. NPCA
5. Niagara Region
6. Debbie and Vince Galati
7. Terry and Melissa Beckett

### **Applicant's Comments**

The Owner stated he had concerns with respect to one of the conditions associated with the suggested development agreement. The Owner indicated he was concerned with the condition indicating the septic be in the rear and that the lot grading and drainage plans shall provide for the building envelop demonstrating consistent streetscape alignment along Metler Road. The Owner indicated he is not opposed a condition that the septic being in the rear however stated he is not in agreement with a condition to align the house along houses on Metler Road. He stated he does not believe this is aligned with keeping to the characteristics of a rural neighbourhood and stated he believe this is an excessive restriction. The Owner further mentioned there is no language indicating how restrictive the alignment would be. He provided the Committee with examples of a variety of homes in the area with different setbacks. The Owner respectfully requested the Committee remove the said

condition. The Chair stated the Committee will discuss the request to remove the condition after the public portion of the meeting.

### **Public Comments**

Ms. Holly Willford, Assistant Secretary Treasurer stated there were no pre-registered members of the public to speak. Ms. Willford indicated she checked the [clerks@pelham.ca](mailto:clerks@pelham.ca) email address at 4:36 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 stated it would be premature to remove the condition requested by the applicant. The Member stated currently the owner does not know where the septic system or water system would be and this can affect the location of the proposed home. The Member stated he does not believe the Committee should remove the condition. Another Member agreed.

A Member asked the owner how the property is serviced with water and indicated he saw a well head at the porch of the existing house. The Owner indicated the Member was correct there is an old well head however there is a new well which is drilled. Further discussion with respect to the location of the well ensued.

A Member stated he agreed with the condition of the development agreement, however stated in bullet number 3 he believed the word 'should' should be removed. The Member asked the Committee if they would agree to the minor amendment. The Members agreed.

A Member asked Mr. Curtis Thompson, Town Planner what the setback for the proposed home would be. In response, Mr. Thompson stated there is no minimum setback. The Member stated therefore the Owner should not be concerned with respect to the language within the condition as presented. In response, the Owner stated he is concerned with the wording 'consistent streetscape alignment' and stated he does not want to have to align himself with his neighbours.

A Member asked Mr. Thompson for advise with respect to the front yard setback. In response, Mr. Thompson stated the Zoning By-Law does not contemplate a maximum front yard setback and stated Planning's recommendation was cognizant of that and stated this is why the Planning

Department did not provide a number. Mr. Thompson said the condition is inherently flexible. In addition, he stated the Director of Planning and Community Development is not prepared to withdraw the recommended condition. The Committee members further discussed and determined the suggestion condition would remain.

**Moved By** Bernie Law

**Seconded By** John Klassen

**THAT the public portion of the meeting be closed.**

**Carried**

**Moved By**

**Application B5/2021P is made for consent to convey 4,046.86 square metres of land (Part 1), is hereby: GRANTED**

**Application B6/2021P is made for consent to convey convey 4,046.86 square metres of land (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. 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. **Confirm that no existing utilities cross the proposed new lot line(s). Should any existing services conflict with the lot line, the applicant shall be responsible for costs associated with their relocation and / or removal. (Application B5/2021P and B6/2021P)**

**To the Satisfaction of the Chief Building Official**

1. **Remove the existing deck on the eastern wall of the existing dwelling. If a Demolition Permit is required in accordance with the Ontario Building Code, the applicant shall bear the costs and responsibility of that work. (Application B6/2021P)**

**To the Satisfaction of the Director of Community Planning & Development**

1. **Obtain approval for any deficient Zoning By-law regulations to the satisfaction of the Director of Community Planning & Development. (Application B5/2021P and B6/2021P)**
2. **Enter into a Development Agreement with the Town that is registered on title addressing the following (Application B5/2021P and B6/2021P):**
  1. **Implementation of recommendations from the Hydrogeological Assessment prepared by Terra-Dynamics Consulting Inc. (dated November 11, 2020), specifically:**
    1. **That all lots be equipped with sewage systems providing at least 50% nitrogen reduction of septic effluent Level IV / tertiary treatment;**
    2. **That future sewage disposal systems observe the required setbacks from the existing potable water supplies illustrated on Figure 4, unless these water supplies are decommissioned by an Ontario-licensed water well contractor; and**
    3. **That water be supplied by cisterns for each of the proposed lots. Otherwise, the construction of new groundwater supplies require:**
      1. **A water supply assessment completed in accordance with the Ministry of Environment, Conservation and Parks D-5-5 Guidelines for Private Wells: Water Supply Assessment;**

2. **Well construction within the Pre-Halton or Bedrock aquifers; and**
- **That its location(s) comply with the Ontario Building Code setbacks.**
1. **That a new private sewage system be installed wholly on Part 2 meeting the above mentioned requirements to the satisfaction of the Region.**
1. **Submission and approval of a comprehensive overall Lot Grading & Drainage Plan for all parcels demonstrating that drainage does not negatively affect, nor rely on neighbouring properties, to the satisfaction of the Director of Public Works, or designate.**
  1. **The Lot Grading & Drainage Plan shall provide building envelopes demonstrating consistent streetscape alignment along Metler Road with septic systems located south of the proposed dwelling footprints. The Site Plan and Grading Plan provided at the time of building permit shall not deviate from that approved under this Agreement, to the satisfaction of the Director of Community Planning & Development.**
2. **Standard archaeological warning clauses.**
3. **Obtain approval for a Driveway Entrance and Culvert Permit for the construction or modification of all new or existing driveway entrances. Installation of driveway entrances shall be in accordance with Town standards, to the satisfaction of the Director of Public Works and the applicant shall bear all costs associated with such. Any street trees needing to be removed shall be replaced with an approved large caliper tree in accordance with the Town's Street Tree Planting List.**

**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. (Application B5/2021P and B6/2021P)**
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. (Application B5/2021P and B6/2021P)**

## **5.6 B6/2021P - 614 Metler Road (Part 3)**

Applications B5/2021P and B6/2021P were heard concurrently.

## **6. Applications for Minor Variance**

### **6.1 A9/2021P - 614 Metler Road (Part 1)**

#### **Purpose of Application**

Applications A9/2021P, A10/2021P and A11/2021P were heard concurrently.

Application A9/2021P for relief of Section 9.2 (b) “Minimum Lot Frontage” – to permit a minimum lot frontage of 30.75m.

Application A10/2021P for relief of Section 9.2 (b) “Minimum Lot Frontage” – to permit a minimum lot frontage of 32.72 m whereas the by-law requires 36m and Section 9.2 (e) “Minimum Interior Side Yard” – to permit a minimum interior side yard of 1.5 m whereas the by-law requires 3m.

Application A11/2021P for relief of Section 9.2 (b) “Minimum Lot Frontage” – to permit a minimum lot frontage of 28.78m whereas the by-law requires 36m.

#### **Representation**

The Owner was electronically present.

#### **Correspondence Received**

1. Town of Pelham Planning Department
2. Town of Pelham Public Works
3. Town of Pelham Building Department
4. Debbie and Vince Galati
5. Terry and Melissa Beckett

#### **Applicant's Comments**

The Owner provided the Committee with examples of various lot frontages in the area surrounding the subject lands and stated his requests are not out of character for the area.

## **Public Comments**

Ms. Holly Willford, Assistant Secretary Treasurer stated there were no pre-registered members of the public to speak. Ms. Willford indicated she checked the [clerks@pelham.ca](mailto:clerks@pelham.ca) email address at 5:07 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 to confirm only one of the properties requires the side yard setback variance. In response, Mr. Thompson stated that was correct.

A Member asked Mr. Thompson to confirm the frontages proposed would still maintain the character of the area. In response, Mr. Thompson indicated that was correct and there is a variety of frontages in the area.

**Moved By** John Klassen

**Seconded By** Bernie Law

**THAT the public portion of the meeting is closed.**

**Carried**

**Moved By** John Klassen

**Seconded By** Bernie Law

**Application A9/2021P for relief of Section 9.2 (b) “Minimum Lot Frontage” – to permit a minimum lot frontage of 30.75m, is hereby: GRANTED.**

**Application A10/2021P for relief of Section 9.2 (b) “Minimum Lot Frontage” – to permit a minimum lot frontage of 32.72 m whereas the by-law requires 36m and Section 9.2 (e) “Minimum Interior Side Yard” – to permit a minimum interior side yard of 1.5 m whereas the by-law requires 3m, is hereby: GRANTED.**

**Application A11/2021P for relief of Section 9.2 (b) “Minimum Lot Frontage” – to permit a minimum lot frontage of 28.78m whereas the by-law requires 36m, is hereby: GRANTED.**

**The above decision is based on the following reasons:**

- 1. The variance is minor in nature as there are no negatively induced impacts and will not negatively distort the rural character.**
- 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 help facilitate the orderly development and gentle, low density residential growth.**
- 5. This application is granted without prejudice to any other application in the Town of Pelham.**
- 6. 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. Obtain final certification for consent file B5/2021P. (Application A9/2021P)**
- 2. Obtain final certification for consent files B5/2021P and B6/2021P. (Application A10/2021P)**
- 3. Obtain final certification for consent file B6/2021P (Application A11/2021P)**

## **6.2 A10/2021P - 614 Metler Road (Part 2)**

Applications A9/2021P, A10/2021P and A11/2021P were heard concurrently.



**6.3 A11/2021P - 614 Metler Road (Part 3)**

Applications A9/2021P, A10/2021P and A11/2021P were heard concurrently.

**7. Minutes for Approval**

**Moved By** Donald Cook

**Seconded By** Bernie Law

**That the minutes of the February 2, 2021, Committee of Adjustment Hearing be approved.**

**Carried**

**8. Adjournment**

**Moved By** Bernie Law

**Seconded By** John Klassen

**BE IT RESOLVED THAT this Meeting of the Committee of Adjustment Hearing be adjourned until the next regular meeting scheduled for April 7, 2021 at 4:00 pm.**

**Carried**

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Don Cook, Chair

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Secretary-Treasurer, Nancy J. Bozzato