

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 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 m² 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 m² 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 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;**

- 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 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

Don Cook, Chair

Secretary-Treasurer, Nancy J. Bozzato