

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

**Meeting #:** CofA 05/2021  
**Date:** Tuesday, May 4, 2021  
**Time:** 4:00 pm  
**Location:** Town of Pelham Municipal Office - Council Chambers  
20 Pelham Town Square, Fonthill

Members Present      John Klassen  
                                 Sandra Marsh  
                                 Brenda Stan

Members Absent      Donald Cook  
                                 Bernie Law

Staff Present          Holly Willford  
                                 Sarah Leach  
                                 Shannon Larocque  
                                 Tolga Aydin

**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 Klassen 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, Secretary-Treasurer stated no requests for withdrawal or adjournment have been made.

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

None.

#### **6. Applications for Consent**

##### **6.1 B11/2021P - 1419 Station Street**

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

Application for consent to partial discharge of mortgage and to convey 11,322 square metres of land (Parts 2 and 3 on sketch), to be added to the abutting properties to the east (Part 4 on sketch).

##### **Representation**

The Agent, Stephen Kaiser, was electronically present.

##### **Correspondence Received**

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

##### **Applicants Comments**

The Agent, Mr. Kaiser indicated he had no comments.

A member asked if Mr. Kaiser has determined how the site will handle stormwater. In response, Mr. Kasier indicated he had and for clarification stated that water on the severed property will flow to the stormwater pond on the corner of Rice Road and Port Robinson Road.

##### **Public Comments**

Ms. Holly Willford, Secretary Treasurer indicated she checked the [clerks@pelham.ca](mailto:clerks@pelham.ca) email address at 4:17pm 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**

No comments.

**Moved By** Sandra Marsh

**Seconded By** Brenda Stan

**THAT application B11/2021P for consent to partial discharge of mortgage and to convey 11,322 square metres of land (Parts 2 and 3 on sketch), to be added to the abutting properties to the east (Part 4 on sketch), is hereby: GRANTED;**

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

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

- 1. Remove the existing accessory building on Part 3, if the structures exceeds 10 m<sup>2</sup> area. If the removal is required then a Demolition Permit is shall be obtained and completed.**
- 2. Remove or relocate the existing accessory building on Part 1 to achieve zoning compliance if the structure exceeds 10 m<sup>2</sup> in area. If the removal is required, a Demolition Permit shall be obtained and completed. If the structure is to be relocated, then a Building Permit shall be obtained and completed.**

### **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.**
- 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.**

### **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 4 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.

2. That the Secretary-Treasurer be provided with a registrable legal description of the subject parcel, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.
3. That the final certification fee of \$399, payable to the Treasurer, Town of Pelham, be submitted to the Secretary-Treasurer. All costs associated with fulfilling conditions of consent shall be borne by the applicant.

The 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

## **6.2 B16/2021P - 3 Hurricane Road (Part 1)**

### **Purpose of the Application:**

Applications B16/2021P, B17/2021P and B18/2021P were heard concurrently.

Application B16/2021P is made for consent to partial discharge of mortgage and consent to convey 623 square metres of land (Part 1).

Application B17/2021P is made for consent to partial discharge of mortgage and consent to convey 666 square metres of land (Part 2).

Application B18/2021P is made for consent to partial discharge of mortgage and consent to convey 730 square metres of land (Part 3).

### **Representation:**

The Owner, Allan Heywood, was electronically present.

### **Correspondence Received:**

1. Planning Department
2. Public Works Department
3. Building Department
4. Hydro One

### **Pre-Registered Members of the Public**

1. Laurie Kukulewich

### **Applicants Comments:**

The Owner, Mr. Heywood, supported the Planning Staff Report and proposed conditions.

### **Public Comments:**

Ms. Laurie Kukulewich acknowledged that she is on record at the November 9, 2020 Public Meeting Under the Planning Act as being in approval of the proposed severance on the subject property. Ms. Kukulewich indicated that her property borders 3 Hurricane Road on the east. She stated that she would like to present four considerations as provisions to the pending approval. Firstly, she requested that the grading of the land and development of the lots does not exceed current grade height. She indicated that her property and neighboring properties have

experienced severe flooding during heavy rainfall. Ms. Kukulewich raised concern that increased grading would exacerbate the current problematic situation. Ms. Kukulewich further requested that the development of the building lots include a sufficient parking allowance. In addition, she asked that a timeline be established to ensure that building occurs within a reasonable period, being one to two years. Ms. Kukulewich indicated that prolonged construction could lead to stagnant water, attracting pests and bacteria. Lastly, Ms. Kukulewich asked that the perimeter trees be kept and maintained.

Ms. Holly Willford, Secretary Treasurer indicated she checked the [clerks@pelham.ca](mailto:clerks@pelham.ca) email address at 4:31pm 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.

In response to the public comments, Mr. Heywood indicated that he has hired Upper Canada Consultants to prepare a servicing and grading plan to be approved by the Town Building department. He stated that there is more than adequate parking for the site in the R1 zone. Mr. Heywood identified that once the severed lots are sold, there is no control over building permit issuance or lack of. He further indicated that the Town's property standards complaint process would address a property in disrepair. With regard to old growth trees, Mr. Heywood stated that a tree/landscape review was conducted on the subject property, concluding that the existing plant material is overgrown and ornamental in nature. Mr. Heywood noted that the Town of Pelham does not have a tree by-law in effect. He affirmed that the lots are large to preserve as many trees as possible outside of the building envelope.

### **Members Comments:**

A Member asked if the curbs on the subject property had been cut in anticipation of severance approval. The Member further asked whether the Town or Applicant would be responsible for re-stalling the curbs if the applications were unsuccessful. Mr. Heywood stated that he requested the curbs cut during the reconstruction of Hurricane Road in anticipation of severance approval. All costs associated with curb cutting were borne by the Applicant.

A Member expressed satisfaction that the Applicant addressed all public comments.

**Moved By** Brenda Stan

**Seconded By** Sandra Marsh

**THAT Application B16/2021P for consent to partial discharge of mortgage and consent to convey 623 square metres of land (Part 1), is hereby: GRANTED;**

**THAT Application B17/2021P for consent to partial discharge of mortgage and consent to convey 666 square metres of land (Part 2), is hereby: GRANTED;**

**THAT Application B18/2021P for consent to partial discharge of mortgage and consent to convey 730 square metres of land (Part 3), is hereby: GRANTED;**

**The above decisions are subject to the following conditions:**

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

- 1. Confirm that no existing utilities cross the proposed lot lines. Should any services cross these lot lines, the applicant shall be responsible for costs associated with their relocation and / or removal.**
- 2. Obtain approval for a Driveway Entrance & Culvert Permit, as applicable, issued through the Public Works department, to Town standards. The applicant shall bear all costs associated with these works.**
- 3. Submit a comprehensive overall Lot Grading & Drainage Plan for all parcels demonstrating that the drainage neither relies, nor negatively impacts neighbouring properties, and that all drainage will be contained within the respective lots, to the satisfaction of the Director of Public Works, or designate.**

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

- 1. Sign the Town of Pelham's standard "Memorandum of Understanding" explaining that development charges and cash-in-lieu of the dedication of land for park purposes are required prior to the issuance of a Building Permit.**

**To the Satisfaction of the Secretary-Treasurer**

1. **Receive Final Certification of consent files B16-2021P, B17-2021P & B18-2021P, from the Secretary – Treasurer, concurrently.**
2. **That the Secretary-Treasurer be provided with a registrable legal description of the subject parcel, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.**
3. **That the final certification fee of \$399, payable to the Treasurer, Town of Pelham, be submitted to the Secretary-Treasurer. All costs associated with fulfilling conditions of consent shall be borne by the applicant.**

**The decisions are 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.**

**Carried**

**6.3 B17/2021P - 3 Hurricane Road (Part 2)**

Application B17/2021P was heard concurrently with applications B16/2021P and B18/2021P. See application B16/2021P for minutes and decision.

**6.4 B18/2021P - 3 Hurricane Road (Part 3)**

Application B18/2021P was heard concurrently with applications B16/2021P and B17/2021P. See application B16/2021P for minutes and



decision.

**7. Appointment of Assistant Secretary-Treasurer**

**Moved By** John Klassen

**Seconded By** Sandra Marsh

**THAT Sarah Leach, be and is hereby appointed as Assistant Secretary-Treasurer of the Committee of Adjustment for the Town of Pelham, effective immediately;**

**AND THAT Nancy Bozzato, be removed as Assistant Secretary-Treasurer of the Committee of Adjustment for the Town of Pelham, effective immediately.**

**Carried**

**8. Minutes for Approval**

**Moved By** Sandra Marsh

**Seconded By** John Klassen

**THAT the Committee of Adjustment Hearing minutes of September 29, 2020 and October 6, 2020, be approved.**

**Carried**

**9. Adjournment**

**Moved By** Brenda Stan

**Seconded By** Sandra Marsh

**BE IT RESOLVED THAT this Meeting of the Committee of Adjustment Hearing be adjourned until the next regular meeting scheduled for June 1, 2021 at 4:30 pm.**

**Carried**

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John Klassen, Chair

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Secretary-Treasurer, Holly Willford