

Committee of Adjustment**Minutes**

Meeting #: CofA 06/2021
Date: Tuesday, June 1, 2021
Time: 4:30 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 Holly Willford
Sarah Leach
Shannon Larocque
Derek Young
Kenny Ng

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 4:30 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. Sarah Leach, Assistant Secretary-Treasurer stated no requests for withdrawal or adjournment have been made.

5. Applications for Minor Variance

5.1 A20/2021P - 50 Canboro Road

Purpose of the Application

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

Representation

The Applicants, Mr. Jack Sykes and Mrs. Barbara Sykes were electronically present.

Correspondence Received

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

Applicant's Comments

The Applicant, Mrs. Sykes, stated that the intent of the application is not to expand the building extraordinarily or create an income property; it is to create a forever home for their family in Fonthill. A Member concurred that the present home is tight and will benefit from the proposed.

Public Comments

Ms. Sarah Leach, Assistant Secretary Treasurer indicated she checked the clerks@pelham.ca email address at 4:43 pm and confirmed no e-mails has been received with regard to the subject application. Ms. Leach indicated the public comment portion of the application could be closed. The Committee agreed to close the public portion of the meeting and deliberate.

Moved By John Klassen
Seconded By Bernie Law

THAT the public portion of the meeting is closed.

Carried

Members Comments

A Member stated that the proposal would add value to the existing dwelling.

A Member sought clarification with reference to the existing dwelling being illegal non-complying. A Member provided insight into the meaning of legal non-complying, noting that the applicants are trying to bring their property into compliance through the proposed minor variances. Given the explanation, the Member voiced no objection to the application.

Moved By John Klassen
Seconded By Bernie Law

Application for relief of Section 14.2(d) “Minimum Front Yard” – to permit a minimum front yard of 4 metres whereas the by-law requires 6.5 metres; is hereby: GRANTED;

Application for relief of Section 14.2(e) “Minimum Interior Side Yard” – to permit a minimum interior side yard of 2.3 metres whereas the by-law requires 3 metres where there is no carport or garage attached, is hereby: GRANTED;

Application for relief of Section 14.2(g) “Minimum Rear Yard” – to permit a minimum rear yard of 6.5 metres whereas the by-law requires 7.5 metres, is hereby: GRANTED;

The above decisions are based on the following reasons:

- 1. The variance is minor in nature as the impact on the subject property and adjacent properties is minimal given the lot context and as no negative impacts are anticipated by the adjacent neighbors.**

2. The general purpose and intent of the Zoning By-Law is maintained.
3. The intent of the Official Plan is maintained.
4. The proposal is desirable for the appropriate development and/or use of the land because it will allow for improved living arrangements and usage of the existing legal non-complying dwelling.
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 decisions are 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.

Prior to Building Permit:

1. To the Satisfaction of the Director of Public Works
 1. Submit for approval, an overall Lot Grading and Drainage Plan demonstrating that the drainage does not negatively impact, nor rely on neighbouring properties.

Carried

6. Applications for Consent

6.1 B19/2021P - 950 Balfour Street

Purpose of the Application

Application 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.

Representation

The Authorized Agent, Mark Shoalts, and Applicant, John Langendoen, were electronically present.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Public Works Department
3. Town of Pelham Building Department
4. Niagara Region
5. Bell
6. ~~Alice Orczy~~

Applicant's Comments

The Agent, Mr. Mark Shoalts, stated that the subject property is home to Willowbrook Nurseries. Mr. Shoalts stated that the greenhouse produces an abundance of landscape material on great soil. He further explained that a portion of the property to the west is subject to clay soil. Mr. Shoalts stated that the intent of the proposal is to move approximately 10 acres of land from 950 Balfour Street to 1000 Balfour Street, leaving a parcel for the continued, legally conforming use of a kennel. He stated the proposal would permit the growing of plant material within valuable soil. He also referenced the existing microclimate, making the proposal appropriate for the use. To conclude, Mr. Shoalts stated that the proposal would ensure the continued use as specialty agricultural land in the future.

Public Comments

Ms. Sarah Leach, Assistant Secretary Treasurer, indicated that the pre-registered member of the public, Ms. Alice Orczy, withdrew her request to speak. Ms. Leach checked the clerks@pelham.ca email address at 4:55 pm and confirmed no e-mails has been received with regard to the subject application. Ms. Leach indicated the public comment portion of the

application could be closed. The Committee agreed to close the public portion of the meeting and deliberate.

Moved By Bernie Law

Seconded By John Klassen

THAT the public portion of the meeting is closed.

Carried

Members Comments

A Member sought clarification as to whether a new lot was being created. In response, Mr. Shoalts, stated that the applicant purchased the adjacent property with the intent of a boundary adjustment and has a pending sale on the kennel property. Mr. Shoalts confirmed that no new lots are proposed. He further confirmed that the use of the lands would remain as a nursery operation and kennel.

A Member provided insight that an approved boundary adjustment would ensure the existing agriculture operation does not need to be moved or leased; noting it would become part of Willowbrook Nurseries. Mr. Shoalts responded that a portion had already been leased to Willowbrook Nurseries for this purpose.

A Member expressed support of the application, noting that agriculture is a strong asset in the Town of Pelham.

Moved By Bernie Law

Seconded By John Klassen

Application 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, is hereby: GRANTED;

The above decision is subject to the following conditions:

To the Satisfaction of the Chief Building Official

1. That a Demolition Permit be obtained, prior to the demolition of existing non-agriculture accessory structures that exceed 10 m² in area.

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 north (Part 3 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 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. 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

Moved By Donald Cook

Seconded By Bernie Law

That the Committee of Adjustment minutes of March 2, 2021 and March 16, 2021 be approved.

Carried

8. Adjournment

Moved By John Klassen

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 June 23rd, 2021 at 4:00 pm.

Carried

Don Cook, Chair

Holly Willford, Secretary-Treasurer