

Committee of Adjustment AGENDA

CofA 08/2021

August 3, 2021

4:00 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 and subsequent publication to the Town's website at 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. A31/2021P - 282 Canboro Road

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1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Niagara Region
5. Linda and Jim Addario

6. Applications for Consent

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6.4. B24/2021P - 97 Port Robinson Road

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1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. NPCA
5. Terry Soucie

Pre-Registered Members of the Public

1. Terry Soucie

7. Minutes for Approval

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June 1, 2021 (JK & BL)

July 6, 2021 (SM & JK)

8. Adjournment

July 28, 2021

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

Re: Minor Variance Application A31/2021P
282 Canboro Road, Pelham
Part of Lot 5, Concession 8, being Part 3 on 59R-16877
Roll No. 2732 020 010 14600

The subject land is located on the south side of Canboro Road lying east of Effingham Street, legally described above, and known locally as 282 Canboro Road in the Town of Pelham.

The subject land is zoned Commercial Rural "CR" in accordance with Pelham Zoning By-law 1136(1987), as amended. The residential dwelling was established within the Commercial Rural zone prior to the adoption of Zoning By-law 1136(1987), thus having a legal non-conforming status.

The Applicant is seeking permission pursuant to Section 45 (2) (a) (ii) of the Planning Act to permit a similar change in use to the existing legal-non conforming use, in order to convert the existing single detached residential dwelling into a commercial business office.

Applicable Planning Policies

Planning Act (Consolidated July 2016)

Section 45 (2) (a) (ii) grants powers to the Committee of Adjustment where any land, on the day the Zoning By-law was passed, was lawfully used for a purpose, may permit, the use of such land for a purpose that, in the Committee's opinion, is similar to the purpose for which it was originally used or is more compatible with the uses permitted by the Zoning By-law.

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 Provincial Policy Statement (PPS) designates the subject land within the ‘Prime Agricultural Area’. ‘Prime Agricultural Areas’ are defined as including associated Canada Land Inventory Class 4-7 lands as well as ‘Prime Agricultural Lands’ (Class 1-3 lands).

Policy 1.1.4.1 states that healthy, viable rural areas should be supported by, among other things, promoting regeneration, diversification of the economic base and providing opportunities for economic activities in prime agricultural areas, in accordance with policy 2.3 and conserving biodiversity.

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.

Based on the Ministry of Heritage, Sport, Tourism and Culture Industries’ (MHSTCI) Criteria for Evaluating Archaeological Potential, the subject property exhibits high potential for the discovery of archaeological resources due to its proximity (within 300 metres) to several past and present watercourses, as well as its location along a historic transportation route (Effingham Street). The Town’s Heritage Master Plan also identifies this area as having composite archaeological resource potential. However, in considering that no physical alterations to the exterior of the dwelling or to the property, and that no new infrastructure is required with the similar change in use application as the business would occupy the existing building, an archeological assessment is therefore not required.

Planning staff are of the opinion the requested similar change in use application is consistent with the PPS and promotes appropriate development standards without causing adverse impacts on the use of the lands or neighbourhood.

Greenbelt Plan (2017)

The Greenbelt Plan designates the intersection of Effingham Street and Canboro Road as a ‘Hamlet’. Hamlets are also included within the definition for ‘Settlement Areas’ and are located within the Protected Countryside.

Policy 1.4.2 states that the policies of this Plan generally do not apply to lands within the boundaries of Towns/Villages and Hamlets and that Official plans will continue to govern land use within these settlement areas based on policy direction provided by the Growth Plan.

Policy 4.5 states that all existing uses and single dwellings on existing lots of record are permitted, provided they were zoned for such prior to the Greenbelt Plan coming into force. Expansions to existing buildings and structures, accessory structures and uses and/or conversions of legally existing uses which bring the use more into conformity with this Plan are permitted as long as new municipal services are not required, and that the use does not expand into key natural heritage features or key hydrologic features or their associated vegetation protection zones, unless there is no other alternative, in which case any expansion shall be limited in scope and kept within close geographical proximity to the existing structure.

The proposed similar change in use will not require new municipal services, and will not expand into key natural heritage features or key hydrologic features or their associated vegetation protection zones, and is therefore, able to conform to the policies in the Greenbelt Plan.

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 'Prime Agricultural Area', which is outside of an approved settlement area according to the Growth Plan. Therefore, the natural heritage system policies of the Growth Plan apply (policy 4.2.2).

Policy 4.2.2.3 a) states that (among other things), within the Natural Heritage System new development or site alteration will demonstrate that there are no negative impacts on key natural heritage features, key hydrologic features or their functions.

Development is defined as the creation of a new lot, a change in land use, or the construction of buildings requiring approval under the Planning Act.

The proposed similar change in use does not fragment any key natural heritage features or key hydrologic features.

Regional Official Plan (Consolidated, August 2014)

The Regional Official Plan designates the subject land as 'Unique Agricultural Area' and 'Greenbelt Natural Heritage System'.

Policy 5.B.8.3 states that in 'Unique Agricultural Areas' expansions/conversions of legally existing uses which bring the use into more conformity with the Regional Official Plan are permitted subject to the demonstration of no new municipal services being required and that the use does not expand into any key natural heritage features and key hydrological features.

The subject application is not proposing any new physical alterations to the exterior of the dwelling or to the property with the similar change in use application, as the business would occupy the existing building. As such, no new municipal services are proposed and no expansion into key natural heritage features and key hydrological features will occur.

Regional staff are satisfied that the proposed development is consistent with Regional environmental policies, and offer no objections to the minor variance to allow an office in place of a residence.

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 Town local Official Plan designates the subject land as 'Specialty Agricultural', with a 'Greenbelt Natural Heritage Overlay' as per Schedule 'A'.

Policy E2 (Non-conforming Uses) states as a general rule, existing uses that do not conform with the policies of this Plan should gradually be phased out so that the affected land use may change to a use which is in conformity with the goals of the Official Plan and the intent of the Zoning By-law. In some instances, it may be necessary and practical to allow the replacement, extension or enlargement of non-conforming uses through the granting of a minor variance or by placing the use in an appropriate zone.

The proposed similar change in use to convert the existing legal non-conforming residential dwelling to a commercial business office should not compromise drainage, privacy or sensitive natural heritage features and is in keeping with the overall character of the neighbourhood.

Town Planning staff are of the opinion the proposed similar change in use conforms to the Official Plan.

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

The subject land is zoned 'Commercial Rural' (CR) in accordance with Pelham Zoning By-law 1136 (1987), as amended. Permitted uses under Section 21 of the 'CR' zone include (among others): automobile service stations, veterinarian's clinic, service shops, farm produce markets, convenience retail stores, restaurants, uses, buildings and structures accessory to the foregoing uses, as well as accessory residential uses to any of the foregoing permitted uses except automobile service station.

The existing residential dwelling is not among the permitted uses, however, as it was lawfully established prior to the adoption of the current Zoning By-law, it is considered to be a legal non-conforming use pursuant to Section 6.15 (a) of the Zoning By-law which allows any legal non-conforming use to continue as long as the use is not abandoned.

The application is made to permit a similar use of 'Commercial business office'.

Agency & Public Comments

On July 6, 2021, a notice of public hearing was circulated by the Secretary Treasurer of the Committee of Adjustment to applicable agencies, Town departments, and to all assessed property owners within 60 metres of the property's boundaries.

To date, the following comments have been received:

- Niagara Region Planning & Development Services (July 21, 2021)
 - No objections to the minor variance to allow an office in place of a residence.
- Building Department (July 20, 2021)
 - A building permit is required for the proposed interior alterations and change of use.
- Public Works Department (July 8, 2021)
 - No comments or conditions.

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

Planning Staff Comments

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 May 6, 2021 to discuss the subject

applications. A *Planning Justification Brief* was submitted on behalf of the applicant by Upper Canada Consultants in support of the proposed development.

The subject lands are located on the south side of Canboro Road, lying east of Effingham Street. The property is surrounded by the following:

North: Rural residential dwellings

East: Auto, truck and industrial repair shop / rural residential dwelling

South: Agricultural / rural residential dwellings

West: Bulk water filling station

Planning staff is of the opinion that the application for a similar change in use to the existing legal-non conforming use is more in keeping with the goals of the Official Plan and the intent of the Zoning By-law. The reasoning being the proposed use is more compatible with the uses permitted in the 'Commercial Rural' (CR) Zone as stated in the Zoning By-law.

The applicant should be aware that any further additions or site alterations may be subject to Site Plan Approval as per the Town's Site Plan Control By-law.

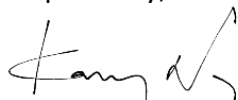
In Planning staff's opinion, the application is consistent with the PPS, Provincial and Regional plans, and conforms to the general policies and intent of both the Official Plan and Zoning By-law and is appropriate for the development and use of the land. The authorization of the similar change in use is not expected to generate any unreasonable negative impacts for adjacent uses or the community at large than what is currently permissible.

Given this analysis, Planning staff recommend that minor variance file A31/2021P **be approved** subject to the following conditions:

THAT the applicant

- Apply for and receive Building Permit for the proposed interior alterations and change of use.

Prepared by,



Kenny Ng, B.ES
Planner

Approved by,



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

Memorandum

Public Works Department - Engineering

DATE: July 8, 2021

TO: Kenny Ng, Planner

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

FROM: Tolga Aydin, Engineering Technologist

RE: File A31/2021P
282 Canboro Road

We have completed the review of the minor variance application A31/2021P, seeking permission pursuant to Section 45(2)(a)(ii) of the Planning Act to permit a change of use to the legal-non conforming use, in order to convert the existing single detached residential dwelling into a commercial business office.

Public Works has no comments or conditions.

To: Sarah Leach

Cc: Kenny Ng

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

Date: July 20th, 2021

Subject: Building Comments on Applications to the Committee of Adjustment for
Consents/Minor Variances –August 3rd, 2021 Hearing

Comment for Re: Files A31 – 282 Canboro Rd.

The building department offers the following comment,

- A building permit is required for the proposed interior alterations and change of use

Comment for Re: Files B21-2021P – 588 Chantler Rd.

The building department offers the following comment,

- No comment

Comment for Re: Files B22-2021P, B23-2021P & B24-2021P 93,95 & 97 Port Robinson Rd.

The building department offers the following comment,

- Building permits will be required for the proposed 3 unit townhouse

Kind Regards,

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

VIA E-MAIL ONLY

July 21, 2021

Sarah Leach, BA.

Administrative Assistant to the Clerk

Administration Services

20 Pelham Town Square, P. O. Box 400

Fonthill, Ontario L0S 1E0

Submission for Minor Variance Application

Location: 282 Canboro Road

In the Town of Pelham

Our File: MV-21-0056

Regional Planning and Development Services staff have completed a review of the provided materials which were provided as part of an application for a minor variance at 282 Canboro Road in the Town of Pelham.

The documents were received by Regional staff on July 06, 2021. The submitted Minor Variance application is seeking permission pursuant to Section 45(2)(a)(ii) of the Planning Act to permit a change of use to the legal-non conforming use, in order to convert the existing single detached residential dwelling into a commercial business office. The following comments are provided from a Regional and Provincial perspective based on the information submitted in order to assist the Town in reviewing the application.

Private Sewage System

Private Sewage System staff have reviewed the application for a change of use for the existing dwelling into a business office. A permit was issued by the Health department in 1986 for the installation of a septic system to service a 3-bedroom house. There were no visible defects with the sewage system at the time of our inspection and it appears that the original septic tank was replaced with a plastic tank at some point. The existing septic system is small and there is little area available for any replacement or expansion so any increases to sewage flows will be limited. However, we have no objections to the minor variance to allow an office in place of a residence.

Conclusion

Based on the analysis and comments above, Regional staff offers no objections to the proposed addition.

If you have any questions or wish to discuss these comments please contact the undersigned at extension 3345, or Susan Dunsmore, Manager Development Engineering, at extension 3661.

Best Regards,



Matteo Ramundo
Development Approvals Technician
Niagara Region

Attention: Appendix- Regional Conditions for Site Plan Approval

cc.

Susan Dunsmore, Manager Development Engineer, Niagara Region
Tanya Killins, Private Sewage System Inspector, Niagara Region

Sarah Leach

To: Holly Willford
Subject: RE: Variance application A31/2021P..282 Canboro rd.

-----Original Message-----

From: Jim Addario [REDACTED]
Sent: Thursday, July 8, 2021 12:33 PM
To: Holly Willford <HWillford@pelham.ca>
Subject: Variance application A31/2021P..282 Canboro rd.

Holly....thank you for the notification regarding this application for a minor variance. Please note that we have no objection to the request and support the approval of this application.

Thanks

Linda and Jim Addario.

[REDACTED] Canboro Rd.
[REDACTED]

Sent from my iPad

July 28, 2021

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

Re: Consent Application B21-2021P
588 Chantler Road, Pelham
Part of Lot 11, Concession 13
Roll No. 2732 030 017 12400

The subject parcel, shown as Part 1 on the attached sketch, has a frontage of 60.57 m on the south side of Chantler Road, lying east of Cream Street, being Part of Lot 11, Concession 13 in the Town of Pelham.

Application is made for consent to partial discharge of mortgage and consent to convey 16,941 m² of land (Part 1) as surplus farm dwelling for residential use. 36.6 hectares of land (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 Provincial Policy Statement (PPS) designates the subject land within the ‘Prime Agricultural Area’. The permitted uses (among others) include agricultural / agricultural related uses, limited residential development and home occupations. ‘Prime Agricultural Areas’ are defined as including associated Canada Land Inventory Class 4-7 lands as well as ‘Prime Agricultural Lands’ (Class 1-3 lands).

Policies 1.1.5.8 and 2.3.3.3 state that new land uses, including the creation of lots, and new or expanding livestock facilities, shall comply with the *minimum distance separation (MDS) formulae*.

The applicant’s agricultural business does not rely on livestock operation as it is solely focused on cash crop production, there is also no adjacent existing livestock operation as reviewed by Planning Staff. Although a new lot is being proposed, no new sensitive land uses such as a residential dwelling would be introduced as a result from this severance approval due to a required site-specific zoning on the retained farm parcel (Part 2) which would prohibit any further residential development.

Policy 2.3.1 states that *prime agricultural areas* shall be protected for long-term agricultural use.

Policy 2.3.4.1 c) states that lot creation in *prime agricultural areas* is discouraged and may only be permitted for a residence surplus to a farming operation as a result of farm consolidation. Provided that, the new lot is limited to the size necessary to accommodate private water and sewage services and that new residential dwellings are prohibited on the remnant parcel of farmland created by the severance.

The applicant has stated the rationale for the significantly larger parcel size proposed for Part 1

in the cover letter and *Planning Justification Brief*. Similar to the existing single detached dwelling, the existing barns and silos are considered surplus to the consolidating farmer's business needs as their equipment is stored nearby. These accessory structures are anticipated to remain, and are conveniently located near the dwelling and will offer utility for the future residents of the dwelling. West of the driveway lies a large open space area which was the main subject of discussion between the applicant and planning staff, as this large, unfarmed area is proposed to remain with the proposed lot, and which is the main contributor to the severely oversized lot configuration. As stated by the applicant, this open space area is not applicable for their farming needs and specifically the lot geometry and on-site environmentally significant features create an obstacle for them to properly utilize the land and therefore, propose that the area be remained with the newly created lot.

Regional Official Plan (Consolidated August 2014)

The Regional Official Plan designates the subject land as 'Good General Agricultural Area'. The predominant use of land will be for agricultural of all types.

The subject lands are impacted by the Region's Core Natural Heritage System (CNHS), consisting of the Upper Coyle Creek Provincially Significant Wetland Complex (PSW), Significant Woodland, Significant Valleyland, and Type 2 Fish Habitat.

Policy 7.B.1.11 and 7.B.1.15 generally require an Environmental Impact Study (EIS) in support of site alteration and/or development proposed within 120 metres of a PSW, 50 metres of a Significant Woodland/Significant Valleyland and 15 metres of a Type 2 Fish Habitat.

As the new lot creation is at the periphery of the noted setbacks, ROP policy 7.B.1.29 provides an exemption for an EIS if a proposed single residential lot is to be located entirely within lands adjacent to the CNHS. The requirement for an EIS was subsequently waived as Regional Staff are satisfied that standard mitigation measures can avoid negative impacts on the features and ecological functions of the CNHS.

Policy 5.B.2 of the ROP provides that, the second highest priority will be given to preserving "good general agricultural lands".

Policy 5.B.8.1 sets out the policies for consents in Good General Agricultural Areas, provided that consents to convey may be permitted only in circumstances set out in the provisions. And which, provision c) states that consents to convey may be permitted for a residence surplus to a farming operation as a result of a farm consolidation provided new residential dwellings are perpetually prohibited on any vacant remnant parcel of land created by the severance. As a condition of severance the applicant must rezone the remnant farm parcel to preclude its use for residential

purposes.

Policy 5.B.9 states that proposed residential lots being considered for a consent under Policy 5.B.8.1 criteria must also meet (among others) the following conditions:

- a) Any new lot is of sufficient size and has suitable soil and site conditions for the installation and long-term operation of a private sewage disposal system in compliance with Provincial requirements.
- b) Any new lot has an adequate ground water supply in compliance with Provincial requirements.
- c) Any new lot has sufficient frontage on an existing public-maintained road.
- f) The size of any new lot shall not exceed an area of 0.4 hectares (1 acre) except to the extent of any additional area deemed necessary to support a well and private sewage disposal system as determined by Provincial requirements.
- g) The proposed lot should be located to minimize the impact on the remaining farm operation.

The proposed lot is 1.69 ha in size and contains one vacant dwelling, three accessory buildings and a silo, and will be serviced by the existing sewage system. As per site inspection, no defects were noted and the lot is of sufficient size to support the replacement of tile bed if needed. Therefore, Regional Private Sewage System staff have no objections to the application as submitted.

Policy 10.C.2.1.13 states that *development* and *site alteration* shall only be permitted on lands containing *archaeological resources* or *areas of archaeological potential* if the significant *archaeological resources* have been *conserved* by removal and documentation, or by preservation on site.

Development, by definition, includes lot creation according to the PPS. Although the subject lands exhibits composite potential for deeply buried archaeological resources according to the Town's Heritage Master Plan, Town Planning staff are of the opinion that this requirement can be waived due to this application's unique condition. Under normal circumstances of lot creation, development is normally induced automatically, as a result of the default zoning provisions. For instance, the default 'Agricultural' zone stipulates one single detached dwelling is permitted, per lot. However, in this case, because an *agricultural purposes only* zoning is required as a condition of severance approval, (to prohibit further residential construction), no deep excavation from building or servicing would result from the lot's creation, beyond what has already been disturbed. The requirement for archaeological assessment is therefore relieved.

Regional staff provided comments which are attached and offered no objections pending the remnant lands be rezoned to preclude further residential construction, and the Town is satisfied

with any archeological assessment(s) and MDS requirements.

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 'Good General Agricultural' according to Schedule 'A'.

Policy B2.1.1 states that the purpose of the Good General Agricultural designation is to protect and maintain land suitable for agricultural production and permit uses which support and/or are compatible with agriculture.

Policy B2.1.3.1 restricts lot creation in the *Good General Agricultural* area in an effort to maintain and protect agricultural resources of the Town, and by directing new residential growth to *urban settlement areas* or existing vacant building lots. However, this policy does allow for the creation of new lots in certain circumstances, specifically provision b), which states the lot is necessary to accommodate a surplus dwelling resulting from a farm consolidation in accordance with Policy B2.1.3.3. if it is necessary to accommodate a surplus dwelling resulting from a farm consolidation in accordance with policy B2.1.3.3.

Policy B2.1.3.3 provides consideration of consents related to farm consolidations which states that it is acknowledged that the consolidation of farms into larger and more efficient operations is a reality in the Regional and Provincial agricultural economy. In this regard, the consolidation of two or more abutting or adjacent farm parcels or a boundary adjustment that increases the size of a farm parcel is permitted provided no new lot is created and provided the benefitting parcel captures the majority of arable farmland.

Existing farm dwellings rendered surplus as a result of a farm consolidation may be severed, regardless if the farm parcels subject to the consolidation are abutting or independent. Applications to sever a surplus farm dwelling should provide for a maximum lot area of 0.4 hectares. A larger lot size will be considered if an additional area is necessary to accommodate a private water and sewage disposal system. In addition it shall be a requirement that the residual or consolidated farm parcel be zoned to preclude future residential use in perpetuity.

Section D.5 of the Official Plan contains policies that are to be considered with every application

to subdivide land in the Town. General Criteria for the creation of new lots by consent is outlined in policy D5.2.1.

Policy D5.2.1 states that for any consent application, the Committee of Adjustment shall be satisfied that (among other things) the proposed lot:

- a) Fronts on and will be directly accessed by a public road;
 - ✓ Yes.
- b) Will not cause a traffic hazard;
 - ✓ Unchanged.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
 - ✓ Site-specific Zoning By-law Amendment is required as a condition of approval to ensure that new residential dwellings are prohibited on Part 2 in perpetuity, as well as to address any zone deficiencies as a result of the new lot creation.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
 - ✓ No issues according to Regional comments.
- e) Will not have a negative impact on the drainage patterns in the area;
 - ✓ A comprehensive overall lot grading plan is required as a condition of approval which demonstrates that the drainage does not negatively impact nor rely on neighbouring properties.
- f) Will not affect the developability of the remainder of the lands, if they are designated for development by this Plan;
 - ✓ The remainder of lands shall be redesignated as 'Agricultural Purposes Only' to preclude future residential development to prevent the loss of prime agricultural farmland. The developability should not be impacted by the new lot creation due to its larger lot size and frontage onto Chantler Road.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
 - ✓ No issues according to Regional and NPCA comments.
- h) Conforms with Regional lot creation policy as articulated in the Regional Official Plan.
 - ✓ No objection from Region pending the satisfaction of any local requirements.
- i) Complies with the appropriate Provincial Minimum Distance Separation Formulae, where applicable.
 - ✓ Not applicable.

The proposed severance would allow for the disposal (selling off) of an existing residential dwelling and surrounding accessory buildings that the applicant considers surplus to their farming needs. According to the application and *Planning Justification Brief*, maintaining the vacant dwelling and the accessory buildings is not feasible for their operation and that they are simply not needed due to their nature of farming business (cash cropping) and having farm

equipment storage nearby.

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

The subject lands are currently zoned 'Agricultural' (A) according to Schedule 'A' of the Zoning By-law.

Based on the Consent Sketch submitted at the time the application was circulated, both the severed and retained lots should comply with the lot frontage and area requirements of the Agricultural Zone. All of the existing accessory buildings are proposed to remain on the severed residential lands (Part 1). According to the sketch, the accessory buildings combined have a total lot coverage of 1.58 %, which exceeds the regulation set out by section 7.7 (a) maximum lot coverage which requires 1 %. The height of the accessory buildings which go as high as 5.8 m also exceeds the related regulation set out by section 7.7 (d) Maximum Building Height which requires 3.7 m.

As required by provincial, regional and local policies, a site-specific Zoning By-law Amendment is required as a condition of approval to prohibit further residential construction on Part 2 and it will also need to address any zoning deficiencies that result from the new lot creation, specifically lot coverage and height of the accessory buildings. This requirement is therefore requested by staff as a condition of approval.

Agency & Public Comments

On June 29, 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 (July 12, 2021)
 - No concerns or comments.
- Niagara Peninsula Conservation Authority (July 21, 2020)
 - No objections.
- Niagara Region Planning & Development Services (July 21, 2021)
 - See attached.
 - No objections to the proposed consent application from a Provincial or Regional perspective, subject to the following conditions:
 - That retained parcel (Part 2) be rezoned for '*Agricultural Purposes Only*' to preclude construction of a dwelling in perpetuity.

- The satisfaction of any local requirements, including archeological assessment(s) and MDS setbacks.
- Building Department (July 20, 2021)
 - No comments.
- Public Works Department (July 8, 2021)
 - That the Applicant obtain a Driveway Access and Culvert Permit from the Town to construct a new access to serve Part 2. Installation and/or modification of new entrances shall be completed in accordance with Town Standards prior to consent and the Applicant shall bear all costs associated with the works.
 - That the Applicant submit a comprehensive overall lot grading plan, to demonstrate that the drainage does not negatively impact nor rely on neighbouring properties, to the satisfaction of the Director of Public Works.
 - That the Applicant confirm no existing utilities cross the proposed new property line. Should any services cross this new property line, the Applicant will be responsible for the cost associated with their relocations and/or removal.

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

Planning Staff Comments

A pre-consultation was held with the applicant(s) of the property and staff from the Town and Niagara Region Planning & Development Services on April 1, 2021 to discuss the subject applications. Planning staff have reviewed aerial photography to better understand the subject land's surrounding context as well as the planning rationale provided in *Planning Justification Brief* prepared by Craig Larmour which was submitted with the application. Regional and Town staff have also conducted a site visit on June 23, 2021 to meet with the applicant to better understand existing site conditions and the applicant's farming operation, with the intention of understanding and evaluating the hardship for the applicant in maintaining a much smaller footprint for the severed lot in order to meet provincial, regional and local policy requirements.

The subject lands are located on the south side of Chantler Road, lying east of Cream Street and are surrounded by agricultural uses and rural residential dwellings.

The applicant (River Bend Farms) operates a long standing, registered farming business growing cash crops such as corn, soybeans and wheat crops. The applicant owns approximately 409.7 hectares of land with another \pm 526 hectares being rented throughout the Township of Wainfleet and Town of Pelham. The personal residence of the applicant is within the Town of Pelham and their farming equipment is located nearby.

Despite the significantly oversized residential surplus dwelling parcel which exceeds the 0.4 ha

policy requirement, it appears that there is merit in allowing this new lot creation. According to the applicant, the accessory buildings and silo do not add value to their agricultural use and needs, instead they will serve some utility for the existing residential dwelling. The applicant also stated that the lot configuration and subsequent accessibility issues make it difficult to meet the maximum lot size requirement.

Applicant indicated that the large open space west of the driveway (which make up a large portion of the proposed lot) is not being cultivated as it is considered surplus to their current farming practice. Planning staff have suggested and discussed with the applicant regarding the possibility to exclude the inclusion of that area to minimize the proposed lot size at the pre-consultation and subsequent meetings, however, it becomes clear that the specific area's unique lot geometry and the existing provincially significant natural heritage features pose significant challenges which impede the applicant's ability to properly utilize the land.

Historically, the maintenance of that open space area was shared between the applicant and the neighbouring homeowner at 596 Chantler Road, and ever since the passing of the neighbouring owner, the land has since been neglected and no longer being maintained for. The open space area is quite narrowly shaped and because of the limited space, large farming equipment which is essential to the applicant's farming operation would not be able to safely turn around when farming. Another major concern raised by the applicant is its limited accessibility which caused the applicant in ruling out the exclusion of it in the proposed lot. In order to access and farm the open space area, the farming equipment will have to enter from the south side of the land, and which the entry point is currently occupied by a drainage ditch which contains several environmentally significant features which were outlined in previous policy analysis section, as well as a vegetated buffer that is mostly consist of bushes and shrubs and a large, mature maple tree. These existing features provide a natural buffer between the applicant's agricultural practice and the neighbouring property and can help serve some vital environmental functions to the parcel. Furthermore, the open space dedicated to the dwelling can provide adequate reserve area for a replacement septic system should the existing septic system fails.

As part of the applicant's submission, they provided a written submission outlining the difficulties associated with purchasing affordable farm land in Pelham. Town Planning staff agree in that the consequences of many decades of creating rural residential lots / retirement lots have especially negatively impacted the agricultural industry and land base as significant amounts of viable farm land have now been taken out of production. Notwithstanding the challenges farmers continue to face when more residential neighbours move in, the cost of purchasing whatever farm land is available can be astronomical when a single residential dwelling is present on the lands. These dwellings often account for the overwhelming market value of the land, and pose significant barriers for purchasing farmers to not only obtain financing, but continue to carry the costs associated with such an expensive property. By allowing the farmer to convey a new lot with the

existing dwelling and to sell off, this can improve the viability of their farm operation by reducing their debt servicing ratio, property tax and insurance, among other things.

Planning staff is of the opinion that the proposal applies current planning and development goals regarding the enablement of appropriate economic development on lands suitable to do so (*prime agricultural area*) by disposing of land that pose a burden to the farm operation and are considered surplus to the farm's viability. Furthermore, the proposed consent avoids harm to any *key natural heritage features* by ensuring those ecologically sensitive features remain wholly intact by avoiding lot fragmentation. The proposed lot creation also would not induce any more non-agricultural development such as residential dwellings, pursuant to a required condition of zoning approval on Part 2 and the parcel fabric would not be out of character in considering surrounding neighbourhood context.

In Planning staff's opinion, the severance would not warrant the unnecessary removal of *prime agricultural land* and the application is consistent with the PPS and conforms to Provincial, Regional, and local plans and policies.

Given this analysis, Planning staff recommend that consent file B21-2021P **be approved** subject to the following conditions:

THAT the applicant

- Obtain final approval for a site-specific Zoning By-law Amendment to rezone Part 2 as Agricultural Purposes Only (APO), to ensure that new residential dwellings are prohibited on Part 2 in perpetuity, to the satisfaction of the Director of Community Planning and Development.
- Address any necessary zone deficiencies resulting from the lot's creation through the Zoning By-law Amendment to the satisfaction of the Director of Community Planning and Development.
- Obtain a Driveway Access and Culvert Permit from the Town to construct a new access to serve Part 2. Installation and/or modification of new entrances shall be completed in accordance with Town Standards prior to consent and the Applicant shall bear all costs associated with the works.
- Submit a comprehensive overall lot grading plan, to demonstrate that the drainage does not negatively impact nor rely on neighbouring properties, to the satisfaction of the Director of Public Works.
- Confirm no existing utilities cross the proposed new property line. Should any services cross this new property line, the Applicant will be responsible for the cost associated with their relocations and/or removal.

- 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,



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

Memorandum

Public Works Department - Engineering

DATE: July 8, 2021

TO: Kenny Ng, Planner

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

FROM: Tolga Aydin, Engineering Technologist

RE: File B21/2021P
588 Chantler Road

We have completed the review of the consent application B21/2021P for consent to partial discharge of mortgage and consent to convey 16,941 square meters of land (Part 1) as surplus farm dwelling for residential use. Part 2 is to be retained for continued agricultural use.

Public Works has the comments;

1. That the Applicant obtain a Driveway Access and Culvert Permit from the Town to construct a new access to serve Part 2. Installation and/or modification of new entrances shall be completed in accordance with Town Standards prior to consent and the Applicant shall bear all costs associated with the works.
2. That the Applicant submit a comprehensive overall lot grading plan, to demonstrate that the drainage does not negatively impact nor rely on neighbouring properties, to the satisfaction of the Director of Public Works.
3. That the Applicant confirm no existing utilities cross the proposed new property line. Should any services cross this new property line, the Applicant will be responsible for the cost associated with their relocations and/or removal.

To: Sarah Leach

Cc: Kenny Ng

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

Date: July 20th, 2021

Subject: Building Comments on Applications to the Committee of Adjustment for
Consents/Minor Variances –August 3rd, 2021 Hearing

Comment for Re: Files A31 – 282 Canboro Rd.

The building department offers the following comment,

- A building permit is required for the proposed interior alterations and change of use

Comment for Re: Files B21-2021P – 588 Chantler Rd.

The building department offers the following comment,

- No comment

Comment for Re: Files B22-2021P, B23-2021P & B24-2021P 93,95 & 97 Port Robinson Rd.

The building department offers the following comment,

- Building permits will be required for the proposed 3 unit townhouse

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

Via Email Only

July 21, 2021

File No.: D.06.06.CS-21-0061

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
Surplus Farm Dwelling Consent
Town File No.: B21/2021P
Owner: [REDACTED]
Agent: [REDACTED]
Address: 588 Chantler Road
Town of Pelham**

Regional Planning and Development Services staff have reviewed the above-noted consent application, which is proposed to sever Part 1 (1.6941 hectares), containing an existing single-detached dwelling, three accessory structures and a silo, known as 588 Chantler Road, as a surplus farm dwelling. Part 2 (36.3 hectares) is to be retained for continued agricultural use.

A preconsultation meeting for this application was held on April 1, 2021, with staff from the Town, Region and Niagara Peninsula Conservation Authority in attendance, as well as the agent. 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 located within a Prime Agricultural Area under the Provincial Policy Statement (PPS), identified as Prime Agricultural Lands in the Provincial Agricultural System under A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan), and designated as Good General Agricultural Area in the Regional Official Plan (ROP). Permitted uses in these areas include agriculture, agricultural-related, and on-farm diversified uses.

Provincial and Regional policies recognize that agricultural land is a valuable asset that must be managed and protected. Accordingly, the policies of the PPS and ROP restrict lot creation in agricultural areas, and only permit severances for agricultural lots, minor boundary adjustments, and the disposal of a residence surplus to a farming operation as a result of a farm consolidation, all subject to specific criteria. For the disposal of a surplus farm dwelling, planning policies require that the construction of a new residential dwelling is prohibited on the vacant farmland parcel. As a condition of severance, Regional policy indicates that the applicant must have the farm parcel rezoned to preclude residential uses on the land in perpetuity. The ROP also requires all proposed residential lots created through consent in agricultural areas to meet additional conditions; this includes a lot area of sufficient size to support a well and private septic disposal system, sufficient frontage and safe access to an existing public road, and that the proposed lot be located to minimize the impact on the remaining farm operation. These requirements and criteria are further discussed below under the relevant sections.

Surplus Farm Dwelling Consent

The PPS defines a farm consolidation as the acquisition of additional farm parcels to be operated as one farm parcel. The information submitted with the application states that the purchasing farmer owns approximately 410 hectares of land, and rents an additional approximately 526 hectares of land in both the Town of Pelham and the Township of Wainfleet for the production of cash crops. The purchasing farmer has indicated that their primary residence is located at 558 River Road, Pelham. Therefore, the dwelling located at 588 Chantler Road is surplus to the farm operation's needs.

The ROP states that the size of any new lot shall not exceed an area of 0.4 hectares (1 acre), except to the extent of any additional area deemed necessary to support a private water supply and sewage disposal system. Part 1 is proposed to be 1.69 hectares in area, which exceeds the maximum size permitted by the ROP. In addition to the dwelling, the parcel includes three accessory structures and a silo. The Planning Justification Brief, prepared by Craig Lamour, MCIP, RPP (dated June 2021), submitted in support of the application indicates that these structures are not required for the farming operation, as adequate barns and other buildings are located at their principal property (558 River Road, Pelham).

The proposed configuration of Part 1 also includes approximately 1 hectare of land to the west of the existing driveway, which does not contain any physical features or structures associated with the existing dwelling. The Planning Justification Brief identifies that these lands have been included in Part 1 as the configuration of the lot restricts their use for agricultural production. There is a wooded area that runs along the westerly lot line of the property in this location, and the cleared area available for farming is approximately 30 metres wide, which is not wide enough to allow the farmer's equipment to access this location, per the Planning Justification Brief.

Regional staff note that the lands to the west of the driveway present challenges for agricultural viability and maintenance, including accessibility impacts due to the watercourse, driveway, and treed area along Chantler Road. Agricultural viability of these lands is also limited by their close proximity to the adjacent residential dwellings. The current configuration of these lands does not allow for enough area to implement adequate buffers to these adjacent residential uses. Accordingly, staff are not opposed to the proposed lot area of Part 1, and are of the opinion that the proposed consent aligns with the intent of Regional policy.

Zoning By-law Amendment

For surplus farm dwelling consents, Provincial and Regional planning policies require that the construction of a new residential dwelling be prohibited on the agricultural parcel. Therefore, as a condition of approval, Regional staff require that Part 2 be appropriately zoned to preclude a future farm residence on the land (i.e., 'Agricultural Purposes Only' (APO)).

Regional staff note that Regional circulation of the zoning by-law amendment application will not be required, provided it is addressed prior to, concurrently or as a condition of consent, in accordance with the Memorandum of Understanding between the Region and the Local Municipalities. A condition to require the rezoning is included in the conclusion of this letter.

Minimum Distance Separation

Provincial and Regional policies require that new development, including lot creation, and new or expanding livestock facilities comply with the Minimum Distance Separation (MDS) formulae developed by the Ministry of Agriculture, Food and Rural Affairs. This formulae is applied in order to separate uses to reduce incompatibility concerns about odour from livestock facilities. An MDS I setback would be required for an existing dwelling to be severed and a livestock facility/anaerobic digester located on the same lot prior to the consent; however, there is no livestock facility on the proposed remnant lot so no MDS information was requested at the preconsultation meeting. Regional staff note that municipalities are responsible for ensuring that MDS setbacks are met when reviewing land use planning applications or building permits. As such, the Committee of Adjustment should look for comments from the Town regarding the MDS setbacks.

Core Natural Heritage

The subject property is impacted by the Region's Core Natural Heritage System (CNHS), consisting of the Upper Coyle Creek Provincially Significant Wetland Complex (PSW), Significant Woodland, Significant Valleyland, and Type 2 (Important) Fish Habitat (see attached map in appendix). Consistent with Regional Official Plan (ROP) Policy 7.B.1.11 and 7.B.1.15, an Environmental Impact Study (EIS) is generally required in support of site alteration and/or development proposed within 120 metres of PSW, 50

metres of Significant Woodland/Significant Valleyland and 15 metres of Type 2 Fish Habitat.

The new lot is located outside of most of the above-noted setbacks, but the southwest corner of this lot approaches within 3 metres of Type 2 Fish Habitat. ROP policy 7.B.1.29 provides an exemption for an EIS if a proposed single residential lot is to be located entirely within lands adjacent to the CNHS, provided that standard mitigation measures can avoid negative impacts on the features and ecological functions of the CNHS and adjacent lands. As no construction is proposed with this application, staff are supportive of waiving the requirement for an EIS.

Archeological Resources

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 (including the creation of a new lot) 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 Provincial screening criteria, the subject lands exhibit high potential for the discovery of archaeological resources due to their proximity (within 300 metres) to a watercourse, a portion of which runs through the subject lands. The Town of Pelham has an approved Heritage Master Plan, and therefore has jurisdiction on matters related to archaeological resources. Accordingly, Regional staff defer to the Town on any requirements for an archaeological assessment.

Private Servicing

The subject property contains a residential dwelling with multiple accessory structures. No record of the installation of the existing sewage system was found, however no defects were noted and sufficient usable land remains available on Part 1 to replace the tile bed when needed. The existing sewage system is wholly contained within Part 1. Therefore, Regional Private Sewage System staff have no objections to the application as submitted.

Conclusion

In conclusion, Regional Planning and Development Services staff have no objections to the proposed consent application from a Provincial or Regional perspective, subject to the following conditions:

1. That Part 2 is rezoned for 'Agricultural Purposes Only' to preclude construction of a dwelling in perpetuity; and

July 21, 2021

2. The satisfaction of any local requirements, including archeological assessment(s) and MDS setbacks.

Subject to the above-noted conditions, the consent application is consistent with the Provincial Policy Statement, and conforms to Provincial plans and the Regional Official Plan from a Provincial and Regional perspective.

If you have any questions related to the above comments, please contact me at Amy.Shanks@niagararegion.ca, or Aimee Alderman, MCIP, RPP, Senior Development Planner at Aimee.Alderman@niagararegion.ca.

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

Kind regards,



Amy Shanks
Development Planner

cc: Aimee Alderman, MCIP, RPP, Senior Development Planner, Niagara Region
Lori Karlewicz, Planning Ecologist, Niagara Region
Caitlin Goodale, Private Sewage System Inspector, Niagara Region
Kenny Ng, Planner, Town of Pelham

Appendix: Core Natural Heritage Features Mapping

Sarah Leach

From: Dolly.Shetty@HydroOne.com on behalf of LandUsePlanning@HydroOne.com
Sent: Monday, July 12, 2021 8:22 AM
To: Sarah Leach
Subject: Pelham - 588 Chantler Road - B21/2021P

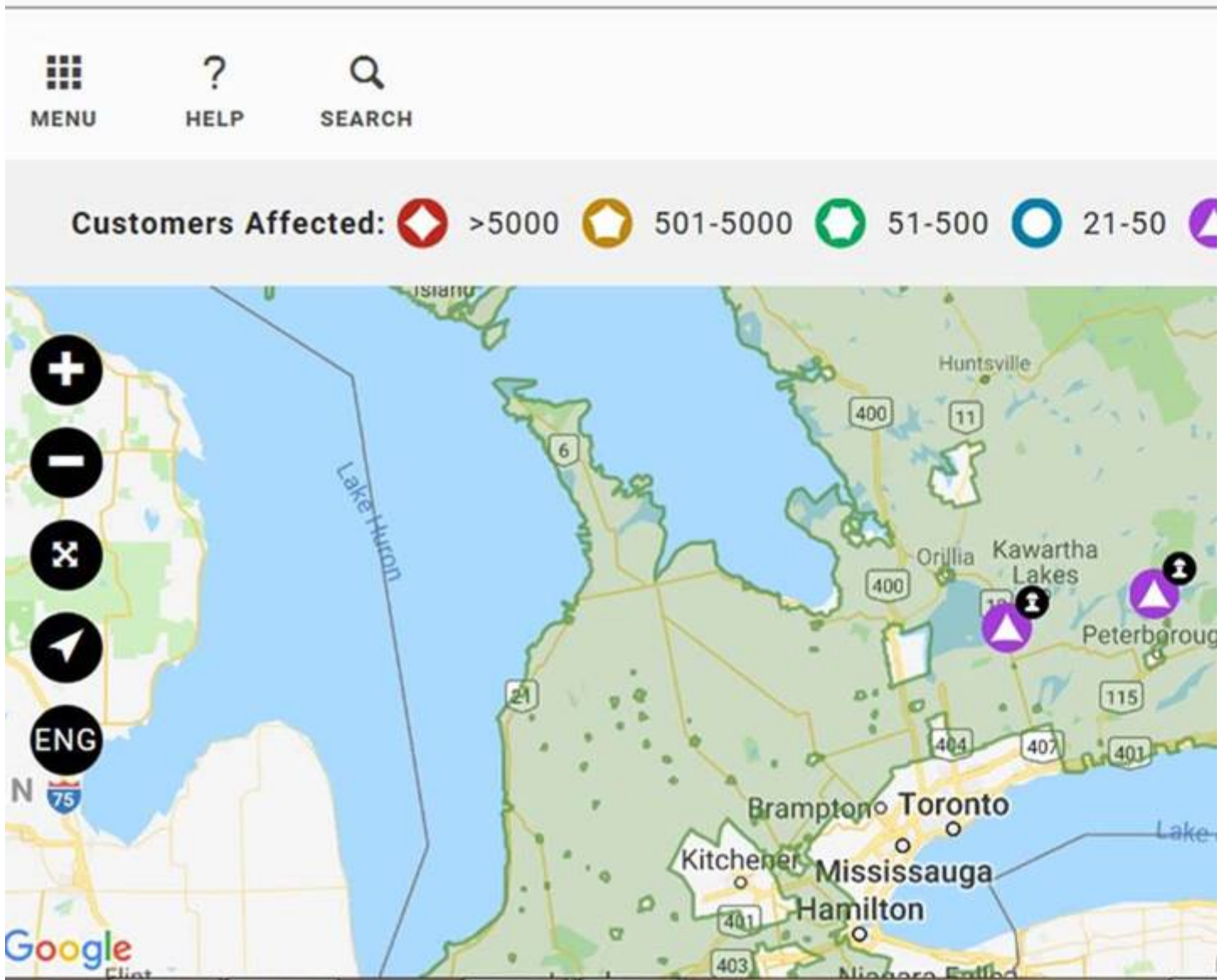
Hello,

We are in receipt of Application B21/2021P dated June 29, 2021. We have reviewed the documents concerning the noted Plan and have no comments or concerns at this time. **Our preliminary review considers issues affecting Hydro One's 'High Voltage Facilities and Corridor Lands' only.**

For proposals affecting 'Low Voltage Distribution Facilities' please consult your local area Distribution Supplier.

To confirm if Hydro One is your local distributor please follow the following link:
<http://www.hydroone.com/StormCenter3/>

Please select " Search" and locate address in question by entering the address or by zooming in and out of the map



If Hydro One is your local area Distribution Supplier, please contact Customer Service at 1-888-664-9376 or e-mail CustomerCommunications@HydroOne.com to be connected to your Local Operations Centre

Thank you,

Best Wishes,

Dolly Shetty

Real Estate Assistant | Land Use Planning

Hydro One Networks Inc.

185 Clegg Road (R32)

Markham, ON | L6G 1B7

Email: Dolly.Shetty@HydroOne.com



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From: Sarah Leach <SLeach@pelham.ca>

Sent: Tuesday, June 29, 2021 8:40 AM

To: LANDUSEPLANNING <LandUsePlanning@HydroOne.com>; Enbridge- Municipal Planning - Enbridge (MunicipalPlanning@enbridge.com) <MunicipalPlanning@enbridge.com>; jim.sorley@npei.ca; ash.neville@rci.rogers.com

Subject: Committee of Adjustment Notice of Hearing - August 3, 2021

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Good morning,

Attached, please find the notice of hearing for file(s)

- B21/2021P – 588 Chantler Road

Should you require a copy of an application in full, please email me your request.

Thank you,
Sarah



Sarah Leach, BA.

Deputy Clerk

Town of Pelham

T: 905-892-2607 x320 | E: sleach@pelham.ca

D: 905-980-6662

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

TOWN OF PELHAM CONFIDENTIALITY NOTICE

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July 21, 2021

Our File No.: PLCON202101019

BY E-MAIL ONLY

Town of Pelham
Planning Department/Committee of Adjustment
20 Pelham Town Square,
P.O. Box 400,
Fonthill ON
L0S 1C0

Attention: Sarah Leach, Deputy Clerk

Subject: Application for Consent (B21/2021P)
588 CHANTLER RD
ARN 273203001712400

NPCA staff have reviewed the above noted application and offer the following comments.

Application **B21/2021P** is made to convey Part 1 as surplus farming dwelling for residential use, while Part 2 is to be continued for agricultural use.

NPCA Policy

NPCA Policies, Procedures and Guidelines for the Administration of Ontario Regulation 155/06 and Land Use Planning Policy Document.

The NPCA regulates watercourses, flood plains (up to the 100 year flood level), Great Lakes shorelines, hazardous land, valleylands, and wetlands under *Ontario Regulation 155/06* of the *Conservation Authorities Act*. The NPCA's *Policies for the Administration of Ontario Regulation 155/06 and The Planning Act*. (NPCA policies) provides direction for managing NPCA regulated features.

The NPCA notes that the property known municipally as 588 Chantler Rd, (the areas under Part 2 on the subject application), features an NPCA regulated watercourses and associated floodplain, as well as a Provincially Significant Wetland known as the Upper Coyle Creek Wetland Complex.

Given the scope, nature and location of the proposed consent, the NPCA have no objections at this time. If any developments are proposed within any NPCA regulated features, please circulate our office for approval.

Conclusion

The NPCA has no objections at this time to the proposed Consent Application **B21/2021P**.

Yours truly,



Nicholas Godfrey,
Watershed Planner
(905) 788-3135, ext. 278

July 28, 2021

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

Re: Consent Application B22-2021P
93 – 97 Port Robinson Road, Pelham
Part of Lots 18 and 19, Plan 717
Roll No. 2732 030 004 06300

The subject parcel, shown as Part 1 on the attached sketch, has a frontage of 11.193 m on the North side of Port Robinson Road, lying east of Station Street, legally described above, and known locally as 93 Port Robinson Road in the Town of Pelham.

Application is made for consent to partial discharge of mortgage and consent to convey 426.5 m² of land (Part 1), for future construction of a three-unit townhouse. Part 4 is to be retained for future development with Part 5.

Note: This application is being heard concurrent with Consent Files B23/2021P and B24/2021P.

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;
 - See PPS and Growth Plan analyses below.
- b) Whether the proposed subdivision is premature or in the public interest;
 - The lot creation is not premature as building permits were legally issued for the townhouse block currently under construction.
- c) Whether the plan conforms to the Official Plan and adjacent plans of subdivisions, if any
 - See Official Plan analysis below. The proposed lot creation does conflict with the East Fonthill Secondary Plan; however, the lot creation itself does not hinder further surrounding redevelopment opportunities such as a subdivision.
- d) The suitability of the land for such purposes;
 - The lands (and neighbourhood) are undergoing significant transformation as the

East Fonthill Secondary Plan area evolves. The conveyance allows for individual ownership (tenure) of one unit of the 3-unit townhouse block.

- f) The dimensions and shapes of the proposed lots;
 - The proposed lot dimensions and shape are rectangular in nature and comply with the current site-specific zoning in effect.
- h) Conservation of natural resources and flood control;
 - No natural resources are impacted because of the lot creation. An overall Lot Grading & Drainage Plan was required as a condition of building permit approval.
- i) The adequacy of utilities and municipal services;
 - Available.
- j) The adequacy of school sites
 - Available nearby.
- k) The area of land, if any, exclusive of highways, to be dedicated for public use.
 - No additional lands are proposed to be dedicated for public use as the lands are not designated as future parkland or open space. Cash-in-lieu of parkland dedication was paid at the time of building permit issuance.
- l) The extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy.
 - The proposed lot will allow for individual, freehold ownership of each townhouse dwelling unit. The townhouse block under construction is being built at, (or above) current energy efficient requirements under the Ontario Building Code.
- m) The interrelationship between the design of the plan of subdivision and site plan control matters relating to any development on the land, if the land is also located in within a site plan control area.
 - While the proposed lot is designated for site plan control, the Town Site Plan Control By-law No. 1118 (1987) exempts street townhouse dwellings from site plan control.

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.

The severance is not premature, and does not compromise any future land use (re)development considerations on adjacent lands or the remnant parcel. Adequate land area is available to accommodate future public streets and laneways surrounding the subject lands. The proposed lot geometry is rectangular and not abnormal for modern development standards. Neighbourhood commercial uses and public schools are also nearby.

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 1.1.3.3 states municipalities shall identify appropriate locations and promote opportunities for intensifications where this can be accommodated taking into account existing building stock and the availability of suitable existing infrastructure and public service facilities.

The Niagara Region Official Plan prescribes an annual residential intensification rate of at least 15% for all lands within Pelham’s *Urban Settlement Areas*, this policy target is also reflected in the Pelham Official Plan.

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.

A Zoning By-law Amendment was approved by Town Council on March 7th 2016 which rezoned the subject lands from A (agricultural) to a site-specific RM1-263 zone. The RM1-263 zone only amended the default minimum corner lot frontage and side yard setback provisions.

Unfortunately, the site-specific zoning approved in 2016 did not adequately capture the types of performance standards necessary to execute the full policy intent of the Official Plan regarding medium density development fronting designated collector roads. As such, the safety and compact form benefits normally associated with providing rear-loaded (laneway) developments cannot be realized.

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 composite

archaeological resource potential. Due to the presence of a recently demolished single detached dwelling, the subject lands are considered significantly disturbed thus warranting the waiving of further archaeological evaluation on this site.

The proposal will facilitate the individual sale of freehold townhouse dwelling units. The lot creation does not induce further residential construction given the nature of the current multi-unit residential zoning in effect. In Planning staff's opinion, the proposed consent is consistent with the PPS.

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' and 'delineated built-up area' according to the Growth Plan. 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.

Policy 2.2.1 Managing Growth – 2. Forecasted growth to the horizon of this Plan will be allocated based on the following:

- a) the vast majority of growth will be directed to *settlement areas* that:
 - i. have a *delineated built boundary*;
 - ii. have existing municipal water / wastewater systems; and
 - iii. can support the achievement of *complete communities*.

Policy 2.2.6.2 Housing – states that notwithstanding policy 1.4.1 of the PPS (2014), in implementing policy 2.2.6.1, municipalities will support the achievement of *complete communities* by:

- a) planning to accommodate forecasted growth to this Plan's horizon;

- b) planning to achieve the minimum intensification and density targets in this Plan;
- c) considering the range and mix of housing options and densities of the existing housing stock; and
- d) planning to diversify their overall housing stock across the municipality.

The proposed severance will facilitate the individual ownership (freehold tenure) of each townhouse dwelling unit. The 3-unit townhouse block currently under construction is supplied with existing water and sanitary sewer services extending along the frontage of the subject lands.

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.

The proposed severance conforms to the Regional Official Plan because the lands are located within the *built-up* area which is the planned focus of residential intensification and redevelopment over the long term.

Regional staff did not object, nor request to be circulated the proposed applications as the development does not conflict with Provincial and Regional interests.

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 'East Fonthill Secondary Plan Area' and 'Built Boundary' according to Schedules 'A1' and 'A4' respectively. The East Fonthill Land Use Plan (Schedule A5) more specifically designates the subject lands as 'EF-Medium Density Residential'. The subject lands front Port Robinson Road, which is designated as a 'Collector Road' according to Schedule 'A6'.

Policy A2.2.2 Growth & Settlement – states that it is a goal of this Plan to encourage

intensification and redevelopment within the *Urban Area* specifically in proximity to the Downtown.

Policy A2.3.2 Urban Character – stated objectives of this Plan include:

- To respect the character of existing development and ensure that all applications for development are physically compatible with the character of the surrounding neighbourhood.
- To encourage the intensification and use of the lands within the Fonthill Downtown core and to make every effort to improve its economic health by encouraging redevelopment and broadest mix of compatible uses.
- To maintain and enhance the character and stability of existing and well-established residential neighbourhoods by ensuring that redevelopment is compatible with the scale and density of existing development.
- To encourage the development of neighbourhoods which are compact, pedestrian-friendly and provide a mix of housing types.

The proposed severance does not induce new construction / *intensification*. In fact, the severance approval merely subdivides the lands along the building's existing demising walls to facilitate individual ownership. The neighbourhood is undergoing considerable transition and its character is evolving regularly as a mixed-use, dense, compact and walkable urban village. The proposed lot is comparable in geometry, land use and orientation with the neighbourhood. The plan's front-loaded driveway access is not in keeping with the Secondary Plan policies. Specifically, objectives respecting positive urban design, streetscape characteristics, and transportation safety principles normally associated with rear-loaded development through the provision of alleyways.

Policy A2.5.2 Infrastructure – stated objectives of this Plan include maintaining existing infrastructure in a manner that is cost effective and contributes to the quality of life of citizens.

Policy A2.7.2 Cultural Heritage – states it is the Plan's objective to ensure that the nature and location of cultural heritage and archaeological resources are known and considered before land use decisions are made.

The subject lands have no existing designated heritage properties and the requirement of an archaeological assessment was waived due to the existing disturbed grounds.

Policy B1.7.3.1 (East Fonthill Development Objectives) – states the following development objectives will be implemented by the mechanisms set out in this Plan.

- b. To ensure a well-designed, attractive, pedestrian & bicycle-friendly community;
- c. To create a sense of identity and continuity within the community through design

treatments that residents and visitors can recognize as characteristic of the Secondary Plan Area;

- d. To create a *complete community* with a safe, healthy and functional environment;
- j. To design roads at a pedestrian scale that are also bicycle-friendly, with attractive public spaces;
- k. To develop a land use pattern and transportation system that supports vehicle traffic, transit, bicyclists and pedestrians.
- l. To provide a hierarchy of collector and local roads that is based on a connected modified grid network.

Policy B1.7.4 (Design Policies) – states the Demonstration Plans (*Appendix A*) have been prepared to articulate a response to policies of this Secondary Plan and the associated Urban Design Guidelines. The Demonstration Plans act as a guideline for development and approval processes that are required to implement this Plan, particularly zoning and draft plans of subdivisions / condominiums. All development shall be generally consistent with *Appendix A*. Adjustments and refinements are anticipated and do not require an Official Plan Amendment, provided that the intent and general design approach inherent to the Demonstration Plans are achieved to the Town's satisfaction.

Town Planning staff note that the current site-specific (RM1-263) zoning is not entirely conducive to rear-loaded development product, the ample spaces to the north (rear) are still geographically capable of supporting a public or private laneway at a later date. A rear laneway will serve to benefit nearby lands fronting Port Robinson Road, improving their redevelopment capacity potential, without compromising the overall balance of the revised Neighbourhood Plan development objectives and policy goals of the Secondary Plan.

Policy B1.7.7.2 states that the Demonstration Plans provided in Appendix A and the Urban Design Guidelines provided in Appendix B, may constitute the road, block and land use plan, if the proposed development is generally consistent with the Demonstration Plans and Urban Design Guidelines, to the satisfaction of the Town. The Neighbourhood Master Plan shall form the basis of Draft Plans of Subdivision, implementing zoning and/or Site Plan Approvals.

The subject lands are geographically situated within Residential 'Neighbourhood 1' according to Schedule 'A4'. As a result of a recently approved Subdivision (River Estates Phase 2), deviating considerably from the Demonstration Plan, the developer had worked with the Town in providing a revised Neighbourhood Master Plan to satisfy the Secondary Plan policies. This latest approved iteration of the Neighbourhood 1 Master Plan still contemplated a highly interconnected street grid complemented by a network of rear laneways running parallel to, and supporting future development along designated Collector Roads such as Port Robinson Road.

The submitted *Planning Justification Report (PJR)* states that the Demonstration Plans found in Appendix A of the Official Plan, are not ‘policy’, but instead a guide. According to policy B1.7.7.2, the Demonstration Plan and Urban Design Guidelines (Appendix B) may constitute the Road, Block and Land Use Plan, the Streetscape Plan and the Urban Design Guideline components of the Neighbourhood Master Plan. It goes on that the Neighbourhood Master Plan shall form the basis of implementing zoning, subdivisions and Site Plan Approvals. The Town shall be satisfied that the Plan has been completed, and all of the policies of this Plan have been appropriately fulfilled.

Town Planning staff note that the Appendices are actually being directly referenced by the policies and identified as development objectives that are to be met with general consistency, and that shall form the basis of development approvals, in order to conform. Unfortunately, the existing site-specific zoning did not adequately capture the types of performance standards suitable for rear laneway development. Further to the *PJR*’s analyses, Town Planning staff recognize that if the intent of the 2016 site-specific zoning were to provide rear-loaded vehicle access, the front yard setback would have been reduced. Unfortunately, this was missed, but the lot geometry was more than capable of dedicating adequate land for a rear laneway while still accommodating adequate private lot depth. In this case, the developer has specifically chosen not to provide for the rear lane, despite the property being capable of supporting one.

Policy B1.7.7.4.2 (EF-Medium Density Residential Development Policies) – states development on the basis of public or private lanes is encouraged and may be required where dwelling units front onto a Collector Main Street (Port Robinson Road).

The Town has been consistent in seeking to implement a network of rear laneways running parallel to existing (or new) collector roads throughout East Fonthill, pursuant to the Secondary Plan policies / Demonstration plans and on the basis of sound planning practice. This has been achieved in coordination with various landowners, to the maximum and most reasonable extent possible. Rear laneway developments offer a healthier presence of built form typically characterized by buildings closely aligned near the travelled road with vehicle access and utilitarian services provided off a back alleyway. This arrangement provides enhanced rear yard amenity privacy, safer vehicle ingress & egress, reduced pedestrian / bicyclist conflicts, and additional parking opportunities both off-street, and on-street, where available. Buildings street-front oriented without dominant attached garage doors help soften the front yard through additional landscaping, not dominated by pavement, and the additional glazing from private development offers a better ‘sense of place’ for the public realm through a stimulating private interface (windows, doors, porches etc.) fostering neighbourhood interaction.

Town Planning staff will continue to work with the various land owners to achieve these policy requirements through future *Planning Act* development applications, and this consent

application does not compromise these policies.

Policy D5.2.1 states that for any consent application, the Committee of Adjustment shall be satisfied that (among other things) the proposed lot:

- a) Fronts on and will be directly accessed by a public road;
 - ✓ Yes.
- b) Will not cause a traffic hazard;
 - ✓ The new driveway addition is not in keeping with the Official Plan policies and safe transportation practice generally, particularly on a busy collector road. Port Robinson Road is anticipated to handle considerably more traffic well into the future. Residents and visitors of front-loaded development are typically required to 'back-out', onto the public road in reverse with poor visibility which is known to cause safety conflicts with those walking, riding bicycles or other travelling vehicles.
 - ✓ However, the development complies with the Zoning By-law in effect and the issuance of Driveway Entrance Permits as well as building permits in accordance with the *Ontario Building Code* are required.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
 - ✓ The proposed lots comply with all applicable zoning regulations.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
 - ✓ Yes and was required prior to building permit issuance.
- e) Will not have a negative impact on the drainage patterns in the area;
 - ✓ Demonstration required as a condition of building permit approval.
- f) Will not affect the developability of the remainder of the lands, if they are designated for development by this Plan;
 - ✓ The severance will not impede the ability for the adjacent vacant lands to the north to be developed, or the *legal non-conforming* lands to the west & east to be redeveloped.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
 - ✓ No issue.
- h) Conforms with Regional lot creation policy as articulated in the Regional Official Plan.
 - ✓ No issue from Region in accordance with Memorandum of Understanding.
- i) Complies with the appropriate Provincial Minimum Distance Separation Formulae, where applicable.
 - ✓ Not applicable.

In accordance with Provincial and Regional policy, the Town will accommodate at least 15% of projected housing growth, or about 300 residential dwelling units, within the existing built

boundaries of Fonthill and Fenwick.

The application is for consent to partial mortgage discharge and to convey an existing townhouse dwelling unit (Part 1), for the purposes of selling each townhouse unit individually, as opposed to a block of three (3) under single ownership. According to the application and *Planning Justification Report*, the remnant land (Part 4) is to be retained for future development with Part 5.

Town Planning staff are of the opinion the proposed severance application conforms to the local Official Plan, principally via direct extension of exercising as-of-right zoning compliance, and less so with the clear policy intent of the East Fonthill Secondary Plan and Urban Design Guidelines.

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

The subject land is currently zoned 'Residential Multiple 1 – 263' (RM1-263) according to Schedule 'A5' of the Zoning By-law, pursuant to amending By-law No. 3719 (2016). Street townhouse dwellings are permitted subject to applicable regulations.

Unfortunately, the site-specific zoning previously endorsed by Town staff and approved by Town Council did not adequately calibrate the zoning provisions to execute the clear policy objective of certain parts of the East Fonthill Secondary Plan. Particularly, a rear-loaded medium density residential zone would have employed shorter front yard setbacks with a required rear-garage access provision, among other things.

Regardless, the proposed lot geometry complies with the applicable zone provisions to facilitate individual lot creation.

Agency & Public Comments

On July 6, 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 (July 20, 2021)
 - Building permits will be required for the proposed 3 unit townhouse.
- Niagara Peninsula Conservation Authority (July 27, 2020)
 - No objections.
- Public Works Department (July 19, 2021)

- Public Works has the following conditions;
 - That the applicant confirm that no existing utilities cross the proposed new property lines. Should any services cross the new property lines, the applicant will be responsible for costs associated with their relocation and/or removal.
 - That the applicant obtains a Driveway Entrance and Culvert Permit from the Public Works department for the construction of all new or modification of existing driveways or entrances. Installation and/or modification of all entrances shall be completed in accordance with Town Standards prior to consent and the applicant shall bear all costs associated with these works.
 - That the new lot is to be individually serviced with a 20mm diameter water service and 125mm diameter sanitary sewer lateral in accordance with Town of Pelham Engineering Standards. Installation of all services will require a Temporary Works Permit obtained through the Public Works Department. These works are to be completed prior to consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete.

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

Planning Staff Comments

Application is made for consent to partial discharge of mortgage and consent to convey 426.5 m² of land (Part 1), for future construction of a three-unit townhouse. Part 4 is to be retained for future development with Part 5.

The subject lands are located on the north side of Port Robinson Road, lying east of Station Street and are situated in a quickly evolving secondary plan growth area.

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 January 21, 2021 to discuss the subject application. In addition to the Consent Sketch, a *Planning Justification Report* prepared by Jennifer Vida was also s in support of the proposed development.

For the Committee's understanding and public record, Town Planning staff wish to clarify an inaccurate claim made by the applicant in their *Planning Justification Report (PJR)*. Page 4 of this *Report* states that a 'zoning review' was conducted and approved in August 2020 by Town Planning staff to review the owner's original plan to build all six (6) townhouse dwellings concurrently, prior to applying for building permit to ensure compliance and avoid delay. This is

false. According to email records between the architect of record and the Town, Planning staff were only asked to review *'side yards and (building) setback'* zone provisions on the draft Site Plan.

The applicant is aware of the Official Plan policy intent yet relies on deferring to, and leveraging the intent of the 2016 site-specific zoning to circumvent what is clearly desired as a rear-loaded built form.

In Planning staff's opinion, the application is otherwise consistent with the PPS and conforms to Provincial, Regional, and local plans.

Given this analysis, Planning staff recommend that consent file B22-2021P **be approved** subject to the following conditions:

THAT the applicant

- Confirm that no existing utilities cross the proposed new property lines. Should any services cross the new property lines, the applicant will be responsible for costs associated with their relocation and/or removal.
- Obtain a Driveway Entrance and Culvert Permit from the Public Works department for the construction of all new or modification of existing driveways or entrances. Installation and/or modification of all entrances shall be completed in accordance with Town Standards prior to consent and the applicant shall bear all costs associated with these works.
- Ensure that the new lot is to be individually serviced with a 20mm diameter water service and 125mm diameter sanitary sewer lateral in accordance with Town of Pelham Engineering Standards. Installation of all services will require a Temporary Works Permit obtained through the Public Works Department. These works are to be completed prior to consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete.
- Obtain Final Certification of consent files: B23-2021P (Part 2) and B24-2021P (Part 3), ensuring that the necessary transfers have been completed and certified by the Land Registry Office, prior to the issuance of the Final Certificate of this application, to the satisfaction of the Secretary-Treasurer of the Committee of Adjustment.
- 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,



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

Memorandum

Public Works Department - Engineering

DATE: July 19, 2021

TO: Shannon Larocque, Senior Planner

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

FROM: Tolga Aydin, Engineering Technologist

RE: File B24/2021P
97 Port Robinson Road

We have completed the review of the consent application B24/2021P for consent to convey 431.3 square meters of land (Part 3), for future construction of a three-unit townhouse. Part 4 is to be retained for future development with Part 5.

Public Works has the following conditions;

1. That the applicant confirm that no existing utilities cross the proposed new property lines. Should any services cross the new property lines, the applicant will be responsible for costs associated with their relocation and/or removal.
2. That the applicant obtains a Driveway Entrance and Culvert Permit from the Public Works department for the construction of all new or modification of existing driveways or entrances. Installation and/or modification of all entrances shall be completed in accordance with Town Standards prior to consent and the applicant shall bear all costs associated with these works.
3. That the new lot is to be individually serviced with a 20mm diameter water service and 125mm diameter sanitary sewer lateral in accordance with Town of Pelham Engineering Standards. Installation of all services will require a Temporary Works Permit obtained through the Public Works Department. These works are to be completed prior to consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete.

To: Sarah Leach

Cc: Kenny Ng

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

Date: July 20th, 2021

Subject: Building Comments on Applications to the Committee of Adjustment for
Consents/Minor Variances –August 3rd, 2021 Hearing

Comment for Re: Files A31 – 282 Canboro Rd.

The building department offers the following comment,

- A building permit is required for the proposed interior alterations and change of use

Comment for Re: Files B21-2021P – 588 Chantler Rd.

The building department offers the following comment,

- No comment

Comment for Re: Files B22-2021P, B23-2021P & B24-2021P 93,95 & 97 Port Robinson Rd.

The building department offers the following comment,

- Building permits will be required for the proposed 3 unit townhouse

Kind Regards,

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

Sarah Leach

To: Nicholas Godfrey
Subject: RE: Committee of Adjustment Notice of Hearing - August 3rd

From: Nicholas Godfrey <ngodfrey@npca.ca>
Sent: Tuesday, July 27, 2021 3:20 PM
To: Sarah Leach <SLeach@pelham.ca>
Subject: RE: Committee of Adjustment Notice of Hearing - August 3rd

Hi Sarah,

Just to confirm – we have no objections to any of the subject applications:

- B22/2021P – 93 Port Robinson Road
- B23/2021P – 95 Port Robinson Road
- B24/2021P – 97 Port Robinson Road

Please let me know if you have any questions.

Best,

Nicholas Godfrey, M.A.
Watershed Planner

Niagara Peninsula Conservation Authority (NPCA)
250 Thorold Road West, 3rd Floor, Welland, ON, L3C 3W2
905-788-3135, ext. 278
ngodfrey@npca.ca
www.npca.ca

From: Terry Soucie [REDACTED]
Sent: Tuesday, July 20, 2021 4:05 PM
To: Holly Willford <HWillford@pelham.ca>
Subject: Files numbers B22/2021P, B23/2021P, and B24/2021P

Hello Ms. Willford:

This email is so I can register to participate in the virtual meeting on August 3, 2021 at 4:00.

The following are my comments:

1. When will construction begin on Part 1, Part 2, Part 3.
2. When will construction end on Part 1, Part 2, Part 3.
3. Which Part will begin construction first.
4. How close to the property line/fence will the dwelling be on Part 1.
5. What type of townhouse unit will be next to my property line on Part 1. Preferably a bungalow.
6. I am interested in having the 2 mature trees (maple and magnolia) that are along the fence line between my property and Part 1 be saved.
7. I would like a new wooden fence installed along the entire property line between my property and Part 1.

I look forward to receiving the link for the virtual meeting.

Thank you.
Terry Soucie

--

Terry Soucie

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Central Time

July 28, 2021

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

Re: Consent Application B23-2021P
93 – 97 Port Robinson Road, Pelham
Part of Lots 18 and 19, Plan 717
Roll No. 2732 030 004 06300

The subject parcel, shown as Part 2 on the attached sketch, has a frontage of 7.772 m on the North side of Port Robinson Road, lying east of Station Street, legally described above, and known locally as 93 Port Robinson Road in the Town of Pelham.

Application is made for consent to partial discharge of mortgage and consent to convey 296.2 m² of land (Part 2), for future construction of a three-unit townhouse. Part 4 is to be retained for future development with Part 5.

Note: This application is being heard concurrent with Consent Files B22/2021P and B24/2021P.

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;
 - See PPS and Growth Plan analyses below.
- b) Whether the proposed subdivision is premature or in the public interest;
 - The lot creation is not premature as building permits were legally issued for the townhouse block currently under construction.
- c) Whether the plan conforms to the Official Plan and adjacent plans of subdivisions, if any
 - See Official Plan analysis below. The proposed lot creation does conflict with the East Fonthill Secondary Plan; however, the lot creation itself does not hinder further surrounding redevelopment opportunities such as a subdivision.
- d) The suitability of the land for such purposes;
 - The lands (and neighbourhood) are undergoing significant transformation as the

East Fonthill Secondary Plan area evolves. The conveyance allows for individual ownership (tenure) of one unit of the 3-unit townhouse block.

- f) The dimensions and shapes of the proposed lots;
 - The proposed lot dimensions and shape are rectangular in nature and comply with the current site-specific zoning in effect.
- h) Conservation of natural resources and flood control;
 - No natural resources are impacted because of the lot creation. An overall Lot Grading & Drainage Plan was required as a condition of building permit approval.
- i) The adequacy of utilities and municipal services;
 - Available.
- j) The adequacy of school sites
 - Available nearby.
- k) The area of land, if any, exclusive of highways, to be dedicated for public use.
 - No additional lands are proposed to be dedicated for public use as the lands are not designated as future parkland or open space. Cash-in-lieu of parkland dedication was paid at the time of building permit issuance.
- l) The extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy.
 - The proposed lot will allow for individual, freehold ownership of each townhouse dwelling unit. The townhouse block under construction is being built at, (or above) current energy efficient requirements under the Ontario Building Code.
- m) The interrelationship between the design of the plan of subdivision and site plan control matters relating to any development on the land, if the land is also located in within a site plan control area.
 - While the proposed lot is designated for site plan control, the Town Site Plan Control By-law No. 1118 (1987) exempts street townhouse dwellings from site plan control.

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.

The severance is not premature, and does not compromise any future land use (re)development considerations on adjacent lands or the remnant parcel. Adequate land area is available to accommodate future public streets and laneways surrounding the subject lands. The proposed lot geometry is rectangular and not abnormal for modern development standards. Neighbourhood commercial uses and public schools are also nearby.

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 1.1.3.3 states municipalities shall identify appropriate locations and promote opportunities for intensifications where this can be accommodated taking into account existing building stock and the availability of suitable existing infrastructure and public service facilities.

The Niagara Region Official Plan prescribes an annual residential intensification rate of at least 15% for all lands within Pelham’s *Urban Settlement Areas*, this policy target is also reflected in the Pelham Official Plan.

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.

A Zoning By-law Amendment was approved by Town Council on March 7th 2016 which rezoned the subject lands from A (agricultural) to a site-specific RM1-263 zone. The RM1-263 zone only amended the default minimum corner lot frontage and side yard setback provisions.

Unfortunately, the site-specific zoning approved in 2016 did not adequately capture the types of performance standards necessary to execute the full policy intent of the Official Plan regarding medium density development fronting designated collector roads. As such, the safety and compact form benefits normally associated with providing rear-loaded (laneway) developments cannot be realized.

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 composite

archaeological resource potential. Due to the presence of a recently demolished single detached dwelling, the subject lands are considered significantly disturbed thus warranting the waiving of further archaeological evaluation on this site.

The proposal will facilitate the individual sale of freehold townhouse dwelling units. The lot creation does not induce further residential construction given the nature of the current multi-unit residential zoning in effect. In Planning staff's opinion, the proposed consent is consistent with the PPS.

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' and 'delineated built-up area' according to the Growth Plan. 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.

Policy 2.2.1 Managing Growth – 2. Forecasted growth to the horizon of this Plan will be allocated based on the following:

- a) the vast majority of growth will be directed to *settlement areas* that:
 - i. have a *delineated built boundary*;
 - ii. have existing municipal water / wastewater systems; and
 - iii. can support the achievement of *complete communities*.

Policy 2.2.6.2 Housing – states that notwithstanding policy 1.4.1 of the PPS (2014), in implementing policy 2.2.6.1, municipalities will support the achievement of *complete communities* by:

- a) planning to accommodate forecasted growth to this Plan's horizon;

- b) planning to achieve the minimum intensification and density targets in this Plan;
- c) considering the range and mix of housing options and densities of the existing housing stock; and
- d) planning to diversify their overall housing stock across the municipality.

The proposed severance will facilitate the individual ownership (freehold tenure) of each townhouse dwelling unit. The 3-unit townhouse block currently under construction is supplied with existing water and sanitary sewer services extending along the frontage of the subject lands.

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.

The proposed severance conforms to the Regional Official Plan because the lands are located within the *built-up* area which is the planned focus of residential intensification and redevelopment over the long term.

Regional staff did not object, nor request to be circulated the proposed applications as the development does not conflict with Provincial and Regional interests.

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 'East Fonthill Secondary Plan Area' and 'Built Boundary' according to Schedules 'A1' and 'A4' respectively. The East Fonthill Land Use Plan (Schedule A5) more specifically designates the subject lands as 'EF-Medium Density Residential'. The subject lands front Port Robinson Road, which is designated as a 'Collector Road' according to Schedule 'A6'.

Policy A2.2.2 Growth & Settlement – states that it is a goal of this Plan to encourage

intensification and redevelopment within the *Urban Area* specifically in proximity to the Downtown.

Policy A2.3.2 Urban Character – stated objectives of this Plan include:

- To respect the character of existing development and ensure that all applications for development are physically compatible with the character of the surrounding neighbourhood.
- To encourage the intensification and use of the lands within the Fonthill Downtown core and to make every effort to improve its economic health by encouraging redevelopment and broadest mix of compatible uses.
- To maintain and enhance the character and stability of existing and well-established residential neighbourhoods by ensuring that redevelopment is compatible with the scale and density of existing development.
- To encourage the development of neighbourhoods which are compact, pedestrian-friendly and provide a mix of housing types.

The proposed severance does not induce new construction / *intensification*. In fact, the severance approval merely subdivides the lands along the building's existing demising walls to facilitate individual ownership. The neighbourhood is undergoing considerable transition and its character is evolving regularly as a mixed-use, dense, compact and walkable urban village. The proposed lot is comparable in geometry, land use and orientation with the neighbourhood. The plan's front-loaded driveway access is not in keeping with the Secondary Plan policies. Specifically, objectives respecting positive urban design, streetscape characteristics, and transportation safety principles normally associated with rear-loaded development through the provision of alleyways.

Policy A2.5.2 Infrastructure – stated objectives of this Plan include maintaining existing infrastructure in a manner that is cost effective and contributes to the quality of life of citizens.

Policy A2.7.2 Cultural Heritage – states it is the Plan's objective to ensure that the nature and location of cultural heritage and archaeological resources are known and considered before land use decisions are made.

The subject lands have no existing designated heritage properties and the requirement of an archaeological assessment was waived due to the existing disturbed grounds.

Policy B1.7.3.1 (East Fonthill Development Objectives) – states the following development objectives will be implemented by the mechanisms set out in this Plan.

- b. To ensure a well-designed, attractive, pedestrian & bicycle-friendly community;
- c. To create a sense of identity and continuity within the community through design

treatments that residents and visitors can recognize as characteristic of the Secondary Plan Area;

- d. To create a *complete community* with a safe, healthy and functional environment;
- j. To design roads at a pedestrian scale that are also bicycle-friendly, with attractive public spaces;
- k. To develop a land use pattern and transportation system that supports vehicle traffic, transit, bicyclists and pedestrians.
- l. To provide a hierarchy of collector and local roads that is based on a connected modified grid network.

Policy B1.7.4 (Design Policies) – states the Demonstration Plans (*Appendix A*) have been prepared to articulate a response to policies of this Secondary Plan and the associated Urban Design Guidelines. The Demonstration Plans act as a guideline for development and approval processes that are required to implement this Plan, particularly zoning and draft plans of subdivisions / condominiums. All development shall be generally consistent with *Appendix A*. Adjustments and refinements are anticipated and do not require an Official Plan Amendment, provided that the intent and general design approach inherent to the Demonstration Plans are achieved to the Town's satisfaction.

Town Planning staff note that the current site-specific (RM1-263) zoning is not entirely conducive to rear-loaded development product, the ample spaces to the north (rear) are still geographically capable of supporting a public or private laneway at a later date. A rear laneway will serve to benefit nearby lands fronting Port Robinson Road, improving their redevelopment capacity potential, without compromising the overall balance of the revised Neighbourhood Plan development objectives and policy goals of the Secondary Plan.

Policy B1.7.7.2 states that the Demonstration Plans provided in Appendix A and the Urban Design Guidelines provided in Appendix B, may constitute the road, block and land use plan, if the proposed development is generally consistent with the Demonstration Plans and Urban Design Guidelines, to the satisfaction of the Town. The Neighbourhood Master Plan shall form the basis of Draft Plans of Subdivision, implementing zoning and/or Site Plan Approvals.

The subject lands are geographically situated within Residential 'Neighbourhood 1' according to Schedule 'A4'. As a result of a recently approved Subdivision (River Estates Phase 2), deviating considerably from the Demonstration Plan, the developer had worked with the Town in providing a revised Neighbourhood Master Plan to satisfy the Secondary Plan policies. This latest approved iteration of the Neighbourhood 1 Master Plan still contemplated a highly interconnected street grid complemented by a network of rear laneways running parallel to, and supporting future development along designated Collector Roads such as Port Robinson Road.

The submitted *Planning Justification Report (PJR)* states that the Demonstration Plans found in Appendix A of the Official Plan, are not ‘policy’, but instead a guide. According to policy B1.7.7.2, the Demonstration Plan and Urban Design Guidelines (Appendix B) may constitute the Road, Block and Land Use Plan, the Streetscape Plan and the Urban Design Guideline components of the Neighbourhood Master Plan. It goes on that the Neighbourhood Master Plan shall form the basis of implementing zoning, subdivisions and Site Plan Approvals. The Town shall be satisfied that the Plan has been completed, and all of the policies of this Plan have been appropriately fulfilled.

Town Planning staff note that the Appendices are actually being directly referenced by the policies and identified as development objectives that are to be met with general consistency, and that shall form the basis of development approvals, in order to conform. Unfortunately, the existing site-specific zoning did not adequately capture the types of performance standards suitable for rear laneway development. Further to the *PJR*’s analyses, Town Planning staff recognize that if the intent of the 2016 site-specific zoning were to provide rear-loaded vehicle access, the front yard setback would have been reduced. Unfortunately, this was missed, but the lot geometry was more than capable of dedicating adequate land for a rear laneway while still accommodating adequate private lot depth. In this case, the developer has specifically chosen not to provide for the rear lane, despite the property being capable of supporting one.

Policy B1.7.7.4.2 (EF-Medium Density Residential Development Policies) – states development on the basis of public or private lanes is encouraged and may be required where dwelling units front onto a Collector Main Street (Port Robinson Road).

The Town has been consistent in seeking to implement a network of rear laneways running parallel to existing (or new) collector roads throughout East Fonthill, pursuant to the Secondary Plan policies / Demonstration plans and on the basis of sound planning practice. This has been achieved in coordination with various landowners, to the maximum and most reasonable extent possible. Rear laneway developments offer a healthier presence of built form typically characterized by buildings closely aligned near the travelled road with vehicle access and utilitarian services provided off a back alleyway. This arrangement provides enhanced rear yard amenity privacy, safer vehicle ingress & egress, reduced pedestrian / bicyclist conflicts, and additional parking opportunities both off-street, and on-street, where available. Buildings street-front oriented without dominant attached garage doors help soften the front yard through additional landscaping, not dominated by pavement, and the additional glazing from private development offers a better ‘sense of place’ for the public realm through a stimulating private interface (windows, doors, porches etc.) fostering neighbourhood interaction.

Town Planning staff will continue to work with the various land owners to achieve these policy requirements through future *Planning Act* development applications, and this consent

application does not compromise these policies.

Policy D5.2.1 states that for any consent application, the Committee of Adjustment shall be satisfied that (among other things) the proposed lot:

- a) Fronts on and will be directly accessed by a public road;
 - ✓ Yes.
- b) Will not cause a traffic hazard;
 - ✓ The new driveway addition is not in keeping with the Official Plan policies and safe transportation practice generally, particularly on a busy collector road. Port Robinson Road is anticipated to handle considerably more traffic well into the future. Residents and visitors of front-loaded development are typically required to 'back-out', onto the public road in reverse with poor visibility which is known to cause safety conflicts with those walking, riding bicycles or other travelling vehicles.
 - ✓ However, the development complies with the Zoning By-law in effect and the issuance of Driveway Entrance Permits as well as building permits in accordance with the *Ontario Building Code* are required.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
 - ✓ The proposed lots comply with all applicable zoning regulations.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
 - ✓ Yes and was required prior to building permit issuance.
- e) Will not have a negative impact on the drainage patterns in the area;
 - ✓ Demonstration required as a condition of building permit approval.
- f) Will not affect the developability of the remainder of the lands, if they are designated for development by this Plan;
 - ✓ The severance will not impede the ability for the adjacent vacant lands to the north to be developed, or the *legal non-conforming* lands to the west & east to be redeveloped.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
 - ✓ No issue.
- h) Conforms with Regional lot creation policy as articulated in the Regional Official Plan.
 - ✓ No issue from Region in accordance with Memorandum of Understanding.
- i) Complies with the appropriate Provincial Minimum Distance Separation Formulae, where applicable.
 - ✓ Not applicable.

In accordance with Provincial and Regional policy, the Town will accommodate at least 15% of projected housing growth, or about 300 residential dwelling units, within the existing built

boundaries of Fonthill and Fenwick.

The application is for consent to partial mortgage discharge and to convey an existing townhouse dwelling unit (Part 1), for the purposes of selling each townhouse unit individually, as opposed to a block of three (3) under single ownership. According to the application and *Planning Justification Report*, the remnant land (Part 4) is to be retained for future development with Part 5.

Town Planning staff are of the opinion the proposed severance application conforms to the local Official Plan, principally via direct extension of exercising as-of-right zoning compliance, and less so with the clear policy intent of the East Fonthill Secondary Plan and Urban Design Guidelines.

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

The subject land is currently zoned 'Residential Multiple 1 – 263' (RM1-263) according to Schedule 'A5' of the Zoning By-law, pursuant to amending By-law No. 3719 (2016). Street townhouse dwellings are permitted subject to applicable regulations.

Unfortunately, the site-specific zoning previously endorsed by Town staff and approved by Town Council did not adequately calibrate the zoning provisions to execute the clear policy objective of certain parts of the East Fonthill Secondary Plan. Particularly, a rear-loaded medium density residential zone would have employed shorter front yard setbacks with a required rear-garage access provision, among other things.

Regardless, the proposed lot geometry complies with the applicable zone provisions to facilitate individual lot creation.

Agency & Public Comments

On July 6, 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 (July 20, 2021)
 - Building permits will be required for the proposed 3 unit townhouse.
- Niagara Peninsula Conservation Authority (July 27, 2020)
 - No objections.
- Public Works Department (July 19, 2021)

- Public Works has the following conditions;
 - That the applicant confirm that no existing utilities cross the proposed new property lines. Should any services cross the new property lines, the applicant will be responsible for costs associated with their relocation and/or removal.
 - That the applicant obtains a Driveway Entrance and Culvert Permit from the Public Works department for the construction of all new or modification of existing driveways or entrances. Installation and/or modification of all entrances shall be completed in accordance with Town Standards prior to consent and the applicant shall bear all costs associated with these works.
 - That the new lot is to be individually serviced with a 20mm diameter water service and 125mm diameter sanitary sewer lateral in accordance with Town of Pelham Engineering Standards. Installation of all services will require a Temporary Works Permit obtained through the Public Works Department. These works are to be completed prior to consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete.

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

Planning Staff Comments

Application is made for consent to partial discharge of mortgage and consent to convey 426.5 m² of land (Part 1), for future construction of a three-unit townhouse. Part 4 is to be retained for future development with Part 5.

The subject lands are located on the north side of Port Robinson Road, lying east of Station Street and are situated in a quickly evolving secondary plan growth area.

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 January 21, 2021 to discuss the subject application. In addition to the Consent Sketch, a *Planning Justification Report* prepared by Jennifer Vida was also s in support of the proposed development.

For the Committee's understanding and public record, Town Planning staff wish to clarify an inaccurate claim made by the applicant in their *Planning Justification Report (PJR)*. Page 4 of this *Report* states that a 'zoning review' was conducted and approved in August 2020 by Town Planning staff to review the owner's original plan to build all six (6) townhouse dwellings concurrently, prior to applying for building permit to ensure compliance and avoid delay. This is

false. According to email records between the architect of record and the Town, Planning staff were only asked to review '*side yards and (building) setback*' zone provisions on the draft Site Plan.

The applicant is aware of the Official Plan policy intent yet relies on deferring to, and leveraging the intent of the 2016 site-specific zoning to circumvent what is clearly desired as a rear-loaded built form.

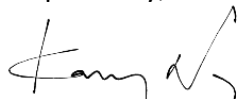
In Planning staff's opinion, the application is otherwise consistent with the PPS and conforms to Provincial, Regional, and local plans.

Given this analysis, Planning staff recommend that consent file B23-2021P **be approved** subject to the following conditions:

THAT the applicant

- Confirm that no existing utilities cross the proposed new property lines. Should any services cross the new property lines, the applicant will be responsible for costs associated with their relocation and/or removal.
- Obtain a Driveway Entrance and Culvert Permit from the Public Works department for the construction of all new or modification of existing driveways or entrances. Installation and/or modification of all entrances shall be completed in accordance with Town Standards prior to consent and the applicant shall bear all costs associated with these works.
- Ensure that the new lot is to be individually serviced with a 20mm diameter water service and 125mm diameter sanitary sewer lateral in accordance with Town of Pelham Engineering Standards. Installation of all services will require a Temporary Works Permit obtained through the Public Works Department. These works are to be completed prior to consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete.
- Obtain Final Certification of consent files: B22-2021P (Part 1) and B24-2021P (Part 3), ensuring that the necessary transfers have been completed and certified by the Land Registry Office, prior to the issuance of the Final Certificate of this application, to the satisfaction of the Secretary-Treasurer of the Committee of Adjustment.
- 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,

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

Memorandum

Public Works Department - Engineering

DATE: July 19, 2021

TO: Shannon Larocque, Senior Planner

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

FROM: Tolga Aydin, Engineering Technologist

RE: File B23/2021P
95 Port Robinson Road

We have completed the review of the consent application B23/2021P for consent to convey 296.2 square meters of land (Part 2), for future construction of a three-unit townhouse. Part 4 is to be retained for future development with Part 5.

Public Works has the following conditions;

1. That the applicant confirm that no existing utilities cross the proposed new property lines. Should any services cross the new property lines, the applicant will be responsible for costs associated with their relocation and/or removal.
2. That the applicant obtains a Driveway Entrance and Culvert Permit from the Public Works department for the construction of all new or modification of existing driveways or entrances. Installation and/or modification of all entrances shall be completed in accordance with Town Standards prior to consent and the applicant shall bear all costs associated with these works.
3. That the new lot is to be individually serviced with a 20mm diameter water service and 125mm diameter sanitary sewer lateral in accordance with Town of Pelham Engineering Standards. Installation of all services will require a Temporary Works Permit obtained through the Public Works Department. These works are to be completed prior to consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete.

To: Sarah Leach

Cc: Kenny Ng

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

Date: July 20th, 2021

Subject: Building Comments on Applications to the Committee of Adjustment for
Consents/Minor Variances –August 3rd, 2021 Hearing

Comment for Re: Files A31 – 282 Canboro Rd.

The building department offers the following comment,

- A building permit is required for the proposed interior alterations and change of use

Comment for Re: Files B21-2021P – 588 Chantler Rd.

The building department offers the following comment,

- No comment

Comment for Re: Files B22-2021P, B23-2021P & B24-2021P 93,95 & 97 Port Robinson Rd.

The building department offers the following comment,

- Building permits will be required for the proposed 3 unit townhouse

Kind Regards,

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

Sarah Leach

To: Nicholas Godfrey
Subject: RE: Committee of Adjustment Notice of Hearing - August 3rd

From: Nicholas Godfrey <ngodfrey@npca.ca>
Sent: Tuesday, July 27, 2021 3:20 PM
To: Sarah Leach <SLeach@pelham.ca>
Subject: RE: Committee of Adjustment Notice of Hearing - August 3rd

Hi Sarah,

Just to confirm – we have no objections to any of the subject applications:

- B22/2021P – 93 Port Robinson Road
- B23/2021P – 95 Port Robinson Road
- B24/2021P – 97 Port Robinson Road

Please let me know if you have any questions.

Best,

Nicholas Godfrey, M.A.
Watershed Planner

Niagara Peninsula Conservation Authority (NPCA)
250 Thorold Road West, 3rd Floor, Welland, ON, L3C 3W2
905-788-3135, ext. 278
ngodfrey@npca.ca
www.npca.ca

From: Terry Soucie [REDACTED]
Sent: Tuesday, July 20, 2021 4:05 PM
To: Holly Willford <HWillford@pelham.ca>
Subject: Files numbers B22/2021P, B23/2021P, and B24/2021P

Hello Ms. Willford:

This email is so I can register to participate in the virtual meeting on August 3, 2021 at 4:00.

The following are my comments:

1. When will construction begin on Part 1, Part 2, Part 3.
2. When will construction end on Part 1, Part 2, Part 3.
3. Which Part will begin construction first.
4. How close to the property line/fence will the dwelling be on Part 1.
5. What type of townhouse unit will be next to my property line on Part 1. Preferably a bungalow.
6. I am interested in having the 2 mature trees (maple and magnolia) that are along the fence line between my property and Part 1 be saved.
7. I would like a new wooden fence installed along the entire property line between my property and Part 1.

I look forward to receiving the link for the virtual meeting.

Thank you.
Terry Soucie

--

Terry Soucie

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Central Time

July 28, 2021

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

Re: Consent Application B24-2021P
93 – 97 Port Robinson Road, Pelham
Part of Lots 18 and 19, Plan 717
Roll No. 2732 030 004 06300

The subject parcel, shown as Part 3 on the attached sketch, has a frontage of 11.185m on the north side of Port Robinson Road, lying east of Station Street, legally described above, and known locally as 93 Port Robinson Road in the Town of Pelham.

Application is made for consent to partial discharge of mortgage and consent to convey 431.3 m² of land (Part 3), for future construction of a three-unit townhouse. Part 4 is to be retained and merged with Part 5 for future residential development.

Note: This application is being heard concurrent with Consent Files B22/2021P and B23/2021P.

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;
 - See PPS and Growth Plan analyses below.
- b) Whether the proposed subdivision is premature or in the public interest;
 - The lot creation is not premature as building permits were legally issued for the townhouse block currently under construction.
- c) Whether the plan conforms to the Official Plan and adjacent plans of subdivisions, if any
 - See Official Plan analysis below. The proposed lot creation does conflict with the East Fonthill Secondary Plan; however, the lot creation itself does not hinder further surrounding redevelopment opportunities such as a subdivision.
- d) The suitability of the land for such purposes;
 - The lands (and neighbourhood) are undergoing significant transformation as the

East Fonthill Secondary Plan area evolves. The conveyance allows for individual ownership (tenure) of one unit of the 3-unit townhouse block.

- f) The dimensions and shapes of the proposed lots;
 - The proposed lot dimensions and shape are rectangular in nature and comply with the current site-specific zoning in effect.
- h) Conservation of natural resources and flood control;
 - No natural resources are impacted because of the lot creation. An overall Lot Grading & Drainage Plan was required as a condition of building permit approval.
- i) The adequacy of utilities and municipal services;
 - Available.
- j) The adequacy of school sites
 - Available nearby.
- k) The area of land, if any, exclusive of highways, to be dedicated for public use.
 - No additional lands are proposed to be dedicated for public use as the lands are not designated as future parkland or open space. Cash-in-lieu of parkland dedication was paid at the time of building permit issuance.
- l) The extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy.
 - The proposed lot will allow for individual, freehold ownership of each townhouse dwelling unit. The townhouse block under construction is being built at, (or above) current energy efficient requirements under the Ontario Building Code.
- m) The interrelationship between the design of the plan of subdivision and site plan control matters relating to any development on the land, if the land is also located in within a site plan control area.
 - While the proposed lot is designated for site plan control, the Town Site Plan Control By-law No. 1118 (1987) exempts street townhouse dwellings from site plan control.

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.

The severance is not premature, and does not compromise any future land use (re)development considerations on adjacent lands or the remnant parcel. Adequate land area is available to accommodate future public streets and laneways surrounding the subject lands. The proposed lot geometry is rectangular and not abnormal for modern development standards. Neighbourhood commercial uses and public schools are also nearby.

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 1.1.3.3 states municipalities shall identify appropriate locations and promote opportunities for intensifications where this can be accommodated taking into account existing building stock and the availability of suitable existing infrastructure and public service facilities.

The Niagara Region Official Plan prescribes an annual residential intensification rate of at least 15% for all lands within Pelham’s *Urban Settlement Areas*, this policy target is also reflected in the Pelham Official Plan.

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.

A Zoning By-law Amendment was approved by Town Council on March 7th 2016 which rezoned the subject lands from A (agricultural) to a site-specific RM1-263 zone. The RM1-263 zone only amended the default minimum corner lot frontage and side yard setback provisions.

Unfortunately, the site-specific zoning approved in 2016 did not adequately capture the types of performance standards necessary to execute the full policy intent of the Official Plan regarding medium density development fronting designated collector roads. As such, the safety and compact form benefits normally associated with providing rear-loaded (laneway) developments cannot be realized.

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 composite

archaeological resource potential. Due to the presence of a recently demolished single detached dwelling, the subject lands are considered significantly disturbed thus warranting the waiving of further archaeological evaluation on this site.

The proposal will facilitate the individual sale of freehold townhouse dwelling units. The lot creation does not induce further residential construction given the nature of the current multi-unit residential zoning in effect. In Planning staff's opinion, the proposed consent is consistent with the PPS.

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' and 'delineated built-up area' according to the Growth Plan. 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.

Policy 2.2.1 Managing Growth – 2. Forecasted growth to the horizon of this Plan will be allocated based on the following:

- a) the vast majority of growth will be directed to *settlement areas* that:
 - i. have a *delineated built boundary*;
 - ii. have existing municipal water / wastewater systems; and
 - iii. can support the achievement of *complete communities*.

Policy 2.2.6.2 Housing – states that notwithstanding policy 1.4.1 of the PPS (2014), in implementing policy 2.2.6.1, municipalities will support the achievement of *complete communities* by:

- a) planning to accommodate forecasted growth to this Plan's horizon;

- b) planning to achieve the minimum intensification and density targets in this Plan;
- c) considering the range and mix of housing options and densities of the existing housing stock; and
- d) planning to diversify their overall housing stock across the municipality.

The proposed severance will facilitate the individual ownership (freehold tenure) of each townhouse dwelling unit. The 3-unit townhouse block currently under construction is supplied with existing water and sanitary sewer services extending along the frontage of the subject lands.

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.

The proposed severance conforms to the Regional Official Plan because the lands are located within the *built-up* area which is the planned focus of residential intensification and redevelopment over the long term.

Regional staff did not object, nor request to be circulated the proposed applications as the development does not conflict with Provincial and Regional interests.

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 'East Fonthill Secondary Plan Area' and 'Built Boundary' according to Schedules 'A1' and 'A4' respectively. The East Fonthill Land Use Plan (Schedule A5) more specifically designates the subject lands as 'EF-Medium Density Residential'. The subject lands front Port Robinson Road, which is designated as a 'Collector Road' according to Schedule 'A6'.

Policy A2.2.2 Growth & Settlement – states that it is a goal of this Plan to encourage

intensification and redevelopment within the *Urban Area* specifically in proximity to the Downtown.

Policy A2.3.2 Urban Character – stated objectives of this Plan include:

- To respect the character of existing development and ensure that all applications for development are physically compatible with the character of the surrounding neighbourhood.
- To encourage the intensification and use of the lands within the Fonthill Downtown core and to make every effort to improve its economic health by encouraging redevelopment and broadest mix of compatible uses.
- To maintain and enhance the character and stability of existing and well-established residential neighbourhoods by ensuring that redevelopment is compatible with the scale and density of existing development.
- To encourage the development of neighbourhoods which are compact, pedestrian-friendly and provide a mix of housing types.

The proposed severance does not induce new construction / *intensification*. In fact, the severance approval merely subdivides the lands along the building's existing demising walls to facilitate individual ownership. The neighbourhood is undergoing considerable transition and its character is evolving regularly as a mixed-use, dense, compact and walkable urban village. The proposed lot is comparable in geometry, land use and orientation with the neighbourhood. The plan's front-loaded driveway access is not in keeping with the Secondary Plan policies. Specifically, objectives respecting positive urban design, streetscape characteristics, and transportation safety principles normally associated with rear-loaded development through the provision of alleyways.

Policy A2.5.2 Infrastructure – stated objectives of this Plan include maintaining existing infrastructure in a manner that is cost effective and contributes to the quality of life of citizens.

Policy A2.7.2 Cultural Heritage – states it is the Plan's objective to ensure that the nature and location of cultural heritage and archaeological resources are known and considered before land use decisions are made.

The subject lands have no existing designated heritage properties and the requirement of an archaeological assessment was waived due to the existing disturbed grounds.

Policy B1.7.3.1 (East Fonthill Development Objectives) – states the following development objectives will be implemented by the mechanisms set out in this Plan.

- b. To ensure a well-designed, attractive, pedestrian & bicycle-friendly community;
- c. To create a sense of identity and continuity within the community through design

treatments that residents and visitors can recognize as characteristic of the Secondary Plan Area;

- d. To create a *complete community* with a safe, healthy and functional environment;
- j. To design roads at a pedestrian scale that are also bicycle-friendly, with attractive public spaces;
- k. To develop a land use pattern and transportation system that supports vehicle traffic, transit, bicyclists and pedestrians.
- l. To provide a hierarchy of collector and local roads that is based on a connected modified grid network.

Policy B1.7.4 (Design Policies) – states the Demonstration Plans (*Appendix A*) have been prepared to articulate a response to policies of this Secondary Plan and the associated Urban Design Guidelines. The Demonstration Plans act as a guideline for development and approval processes that are required to implement this Plan, particularly zoning and draft plans of subdivisions / condominiums. All development shall be generally consistent with *Appendix A*. Adjustments and refinements are anticipated and do not require an Official Plan Amendment, provided that the intent and general design approach inherent to the Demonstration Plans are achieved to the Town's satisfaction.

Town Planning staff note that the current site-specific (RM1-263) zoning is not entirely conducive to rear-loaded development product, the ample spaces to the north (rear) are still geographically capable of supporting a public or private laneway at a later date. A rear laneway will serve to benefit nearby lands fronting Port Robinson Road, improving their redevelopment capacity potential, without compromising the overall balance of the revised Neighbourhood Plan development objectives and policy goals of the Secondary Plan.

Policy B1.7.7.2 states that the Demonstration Plans provided in Appendix A and the Urban Design Guidelines provided in Appendix B, may constitute the road, block and land use plan, if the proposed development is generally consistent with the Demonstration Plans and Urban Design Guidelines, to the satisfaction of the Town. The Neighbourhood Master Plan shall form the basis of Draft Plans of Subdivision, implementing zoning and/or Site Plan Approvals.

The subject lands are geographically situated within Residential 'Neighbourhood 1' according to Schedule 'A4'. As a result of a recently approved Subdivision (River Estates Phase 2), deviating considerably from the Demonstration Plan, the developer had worked with the Town in providing a revised Neighbourhood Master Plan to satisfy the Secondary Plan policies. This latest approved iteration of the Neighbourhood 1 Master Plan still contemplated a highly interconnected street grid complemented by a network of rear laneways running parallel to, and supporting future development along designated Collector Roads such as Port Robinson Road.

The submitted *Planning Justification Report (PJR)* states that the Demonstration Plans found in Appendix A of the Official Plan, are not ‘policy’, but instead a guide. According to policy B1.7.7.2, the Demonstration Plan and Urban Design Guidelines (Appendix B) may constitute the Road, Block and Land Use Plan, the Streetscape Plan and the Urban Design Guideline components of the Neighbourhood Master Plan. It goes on that the Neighbourhood Master Plan shall form the basis of implementing zoning, subdivisions and Site Plan Approvals. The Town shall be satisfied that the Plan has been completed, and all of the policies of this Plan have been appropriately fulfilled.

Town Planning staff note that the Appendices are actually being directly referenced by the policies and identified as development objectives that are to be met with general consistency, and that shall form the basis of development approvals, in order to conform. Unfortunately, the existing site-specific zoning did not adequately capture the types of performance standards suitable for rear laneway development. Further to the *PJR*’s analyses, Town Planning staff recognize that if the intent of the 2016 site-specific zoning were to provide rear-loaded vehicle access, the front yard setback would have been reduced. Unfortunately, this was missed, but the lot geometry was more than capable of dedicating adequate land for a rear laneway while still accommodating adequate private lot depth. In this case, the developer has specifically chosen not to provide for the rear lane, despite the property being capable of supporting one.

Policy B1.7.7.4.2 (EF-Medium Density Residential Development Policies) – states development on the basis of public or private lanes is encouraged and may be required where dwelling units front onto a Collector Main Street (Port Robinson Road).

The Town has been consistent in seeking to implement a network of rear laneways running parallel to existing (or new) collector roads throughout East Fonthill, pursuant to the Secondary Plan policies / Demonstration plans and on the basis of sound planning practice. This has been achieved in coordination with various landowners, to the maximum and most reasonable extent possible. Rear laneway developments offer a healthier presence of built form typically characterized by buildings closely aligned near the travelled road with vehicle access and utilitarian services provided off a back alleyway. This arrangement provides enhanced rear yard amenity privacy, safer vehicle ingress & egress, reduced pedestrian / bicyclist conflicts, and additional parking opportunities both off-street, and on-street, where available. Buildings street-front oriented without dominant attached garage doors help soften the front yard through additional landscaping, not dominated by pavement, and the additional glazing from private development offers a better ‘sense of place’ for the public realm through a stimulating private interface (windows, doors, porches etc.) fostering neighbourhood interaction.

Town Planning staff will continue to work with the various land owners to achieve these policy requirements through future *Planning Act* development applications, and this consent

application does not compromise these policies.

Policy D5.2.1 states that for any consent application, the Committee of Adjustment shall be satisfied that (among other things) the proposed lot:

- a) Fronts on and will be directly accessed by a public road;
 - ✓ Yes.
- b) Will not cause a traffic hazard;
 - ✓ The new driveway addition is not in keeping with the Official Plan policies and safe transportation practice generally, particularly on a busy collector road. Port Robinson Road is anticipated to handle considerably more traffic well into the future. Residents and visitors of front-loaded development are typically required to 'back-out', onto the public road in reverse with poor visibility which is known to cause safety conflicts with those walking, riding bicycles or other travelling vehicles.
 - ✓ However, the development complies with the Zoning By-law in effect and the issuance of Driveway Entrance Permits as well as building permits in accordance with the *Ontario Building Code* are required.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
 - ✓ The proposed lots comply with all applicable zoning regulations.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
 - ✓ Yes and was required prior to building permit issuance.
- e) Will not have a negative impact on the drainage patterns in the area;
 - ✓ Demonstration required as a condition of building permit approval.
- f) Will not affect the developability of the remainder of the lands, if they are designated for development by this Plan;
 - ✓ The severance will not impede the ability for the adjacent vacant lands to the north to be developed, or the *legal non-conforming* lands to the west & east to be redeveloped.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
 - ✓ No issue.
- h) Conforms with Regional lot creation policy as articulated in the Regional Official Plan.
 - ✓ No issue from Region in accordance with Memorandum of Understanding.
- i) Complies with the appropriate Provincial Minimum Distance Separation Formulae, where applicable.
 - ✓ Not applicable.

In accordance with Provincial and Regional policy, the Town will accommodate at least 15% of projected housing growth, or about 300 residential dwelling units, within the existing built

boundaries of Fonthill and Fenwick.

The application is for consent to partial mortgage discharge and to convey an existing townhouse dwelling unit (Part 1), for the purposes of selling each townhouse unit individually, as opposed to a block of three (3) under single ownership. According to the application and *Planning Justification Report*, the remnant land (Part 4) is to be retained for future development with Part 5.

Town Planning staff are of the opinion the proposed severance application conforms to the local Official Plan, principally via direct extension of exercising as-of-right zoning compliance, and less so with the clear policy intent of the East Fonthill Secondary Plan and Urban Design Guidelines.

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

The subject land is currently zoned 'Residential Multiple 1 – 263' (RM1-263) according to Schedule 'A5' of the Zoning By-law, pursuant to amending By-law No. 3719 (2016). Street townhouse dwellings are permitted subject to applicable regulations.

Unfortunately, the site-specific zoning previously endorsed by Town staff and approved by Town Council did not adequately calibrate the zoning provisions to execute the clear policy objective of certain parts of the East Fonthill Secondary Plan. Particularly, a rear-loaded medium density residential zone would have employed shorter front yard setbacks with a required rear-garage access provision, among other things.

Regardless, the proposed lot geometry complies with the applicable zone provisions to facilitate individual lot creation.

Agency & Public Comments

On July 6, 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 (July 20, 2021)
 - Building permits will be required for the proposed 3 unit townhouse.
- Public Works Department (July 19, 2021)
 - Public Works has the following conditions;

- That the applicant confirm that no existing utilities cross the proposed new property lines. Should any services cross the new property lines, the applicant will be responsible for costs associated with their relocation and/or removal.
- That the applicant obtains a Driveway Entrance and Culvert Permit from the Public Works department for the construction of all new or modification of existing driveways or entrances. Installation and/or modification of all entrances shall be completed in accordance with Town Standards prior to consent and the applicant shall bear all costs associated with these works.
- That the new lot is to be individually serviced with a 20mm diameter water service and 125mm diameter sanitary sewer lateral in accordance with Town of Pelham Engineering Standards. Installation of all services will require a Temporary Works Permit obtained through the Public Works Department. These works are to be completed prior to consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete.

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

Planning Staff Comments

Application is made for consent to partial discharge of mortgage and consent to convey 426.5 m² of land (Part 1), for future construction of a three-unit townhouse. Part 4 is to be retained for future development with Part 5.

The subject lands are located on the north side of Port Robinson Road, lying east of Station Street and are situated in a quickly evolving secondary plan growth area.

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 January 21, 2021 to discuss the subject application. In addition to the Consent Sketch, a *Planning Justification Report* prepared by Jennifer Vida was also s in support of the proposed development.

For the Committee's understanding and public record, Town Planning staff wish to clarify an inaccurate claim made by the applicant in their *Planning Justification Report (PJR)*. Page 4 of this *Report* states that a 'zoning review' was conducted and approved in August 2020 by Town Planning staff to review the owner's original plan to build all six (6) townhouse dwellings concurrently, prior to applying for building permit to ensure compliance and avoid delay. This is false. According to email records between the architect of record and the Town, Planning staff

were only asked to review '*side yards and (building) setback*' zone provisions on the draft Site Plan.

The applicant is aware of the Official Plan policy intent yet relies on deferring to, and leveraging the intent of the 2016 site-specific zoning to circumvent what is clearly desired as a rear-loaded built form.

In Planning staff's opinion, the application is otherwise consistent with the PPS and conforms to Provincial, Regional, and local plans.

Given this analysis, Planning staff recommend that consent file B24-2021P **be approved** subject to the following conditions:

THAT the applicant

- Confirm that no existing utilities cross the proposed new property lines. Should any services cross the new property lines, the applicant will be responsible for costs associated with their relocation and/or removal.
- Obtain a Driveway Entrance and Culvert Permit from the Public Works department for the construction of all new or modification of existing driveways or entrances. Installation and/or modification of all entrances shall be completed in accordance with Town Standards prior to consent and the applicant shall bear all costs associated with these works.
- Ensure that the new lot is to be individually serviced with a 20mm diameter water service and 125mm diameter sanitary sewer lateral in accordance with Town of Pelham Engineering Standards. Installation of all services will require a Temporary Works Permit obtained through the Public Works Department. These works are to be completed prior to consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete.
- Obtain Final Certification of consent files: B22-2021P (Part 1) and B23-2021P (Part 2), ensuring that the necessary transfers have been completed and certified by the Land Registry Office, prior to the issuance of the Final Certificate of this application, to the satisfaction of the Secretary-Treasurer of the Committee of Adjustment.
- Provide the Secretary-Treasurer of the Committee of Adjustment with an undertaking that Part 4 will merge with Part 5 following the completion of the transfer of Part 3.
- 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,



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

Memorandum

Public Works Department - Engineering

DATE: July 19, 2021

TO: Shannon Larocque, Senior Planner

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

FROM: Tolga Aydin, Engineering Technologist

RE: File B24/2021P
97 Port Robinson Road

We have completed the review of the consent application B24/2021P for consent to convey 431.3 square meters of land (Part 3), for future construction of a three-unit townhouse. Part 4 is to be retained for future development with Part 5.

Public Works has the following conditions;

1. That the applicant confirm that no existing utilities cross the proposed new property lines. Should any services cross the new property lines, the applicant will be responsible for costs associated with their relocation and/or removal.
2. That the applicant obtains a Driveway Entrance and Culvert Permit from the Public Works department for the construction of all new or modification of existing driveways or entrances. Installation and/or modification of all entrances shall be completed in accordance with Town Standards prior to consent and the applicant shall bear all costs associated with these works.
3. That the new lot is to be individually serviced with a 20mm diameter water service and 125mm diameter sanitary sewer lateral in accordance with Town of Pelham Engineering Standards. Installation of all services will require a Temporary Works Permit obtained through the Public Works Department. These works are to be completed prior to consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete.

To: Sarah Leach

Cc: Kenny Ng

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

Date: July 20th, 2021

Subject: Building Comments on Applications to the Committee of Adjustment for
Consents/Minor Variances –August 3rd, 2021 Hearing

Comment for Re: Files A31 – 282 Canboro Rd.

The building department offers the following comment,

- A building permit is required for the proposed interior alterations and change of use

Comment for Re: Files B21-2021P – 588 Chantler Rd.

The building department offers the following comment,

- No comment

Comment for Re: Files B22-2021P, B23-2021P & B24-2021P 93,95 & 97 Port Robinson Rd.

The building department offers the following comment,

- Building permits will be required for the proposed 3 unit townhouse

Kind Regards,

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

Sarah Leach

To: Nicholas Godfrey
Subject: RE: Committee of Adjustment Notice of Hearing - August 3rd

From: Nicholas Godfrey <ngodfrey@npca.ca>
Sent: Tuesday, July 27, 2021 3:20 PM
To: Sarah Leach <SLeach@pelham.ca>
Subject: RE: Committee of Adjustment Notice of Hearing - August 3rd

Hi Sarah,

Just to confirm – we have no objections to any of the subject applications:

- B22/2021P – 93 Port Robinson Road
- B23/2021P – 95 Port Robinson Road
- B24/2021P – 97 Port Robinson Road

Please let me know if you have any questions.

Best,

Nicholas Godfrey, M.A.
Watershed Planner

Niagara Peninsula Conservation Authority (NPCA)
250 Thorold Road West, 3rd Floor, Welland, ON, L3C 3W2
905-788-3135, ext. 278
ngodfrey@npca.ca
www.npca.ca

From: Terry Soucie [REDACTED]
Sent: Tuesday, July 20, 2021 4:05 PM
To: Holly Willford <HWillford@pelham.ca>
Subject: Files numbers B22/2021P, B23/2021P, and B24/2021P

Hello Ms. Willford:

This email is so I can register to participate in the virtual meeting on August 3, 2021 at 4:00.

The following are my comments:

1. When will construction begin on Part 1, Part 2, Part 3.
2. When will construction end on Part 1, Part 2, Part 3.
3. Which Part will begin construction first.
4. How close to the property line/fence will the dwelling be on Part 1.
5. What type of townhouse unit will be next to my property line on Part 1. Preferably a bungalow.
6. I am interested in having the 2 mature trees (maple and magnolia) that are along the fence line between my property and Part 1 be saved.
7. I would like a new wooden fence installed along the entire property line between my property and Part 1.

I look forward to receiving the link for the virtual meeting.

Thank you.
Terry Soucie

--

Terry Soucie

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Central Time

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 or 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

Committee of Adjustment
Minutes

Meeting #: CofA 07/2021
Date: Tuesday, July 6, 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
 Kenny Ng
 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 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. Sarah Leach, Assistant Secretary-Treasurer stated no requests for withdrawal or adjournment have been made.

5. Applications for Minor Variance

5.1 A19/2021P - 1000 Effingham Street

Purpose of Application

Application for relief of Section 7.7 (a) “Maximum (Accessory) Lot Coverage” – to permit a maximum (accessory) lot coverage of 1.5% whereas the by-law allows for 1% provided the maximum lot coverage of all buildings does not exceed 10% and Section 7.7 (d) “Maximum Building Height” – to permit a maximum building height of 5m whereas the by-law allows 3.7m.

Representation

The Agent, Mr. Ethan Laman from Upper Canada Consultants and Applicants, Gerald and Jennifer DeHaan were electronically present.

Correspondence

1. Town of Pelham Planning
2. Town of Pelham Building
3. Town of Pelham Public Works
4. Niagara Region
5. Randy Beres

Applicants Comments

The Agent, Mr. Laman, provided a short presentation to further explain the application. A copy is available through the Clerk.

Public Comments

Ms. Sarah Leach, Assistant Secretary Treasurer confirmed there were no pre-registered members of the public and indicated she checked the clerks@pelham.ca email address at 4:20 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.

Members Comments

The Members indicated they had no comments or objections.

Moved By Sandra Marsh

Seconded By Brenda Stan

Application for relief of Section 7.7 (a) “Maximum (Accessory) Lot Coverage” – to permit a maximum (accessory) lot coverage of 1.5% whereas the by-law allows for 1% provided the maximum lot coverage of all buildings does not exceed 10%; is hereby: GRANTED;

Application for relief of Section 7.7 (d) “Maximum Building Height” – to permit a maximum building height of 5m whereas the by-law allows 3.7m; 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.**
- 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 the accessory building reuses a formal building footprint on the property as well as employs a typical rural built form, which demonstrates and maintains the rural character of the property.**
- 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. That all necessary building permits are required for the constructed accessory building, to the satisfaction of the Chief Building Official.**
 - 1. Ensure no plumbing or living spaces be provided within the accessory building at the time of building permit.**

Prior to Building Permit:

- 1. To the Satisfaction of the Director of Community Planning and Development**
 - 1. Ensure that the accessory building meets the minimum setback distance derived from the Minimum Distance Separation (MDS) Formula if the building is to be used for housing livestock.**

Carried

6. Applications for Consent

6.1 B20/2021P - 3 Hurricane Road (Part 1)

Purpose of Application

Application for consent to partial discharge of mortgage and consent to convey 1,606 square metres of land (Part 1), for future construction of a single detached dwelling. 2,428 square metres of land (Part 2) is to be retained for continued residential use of the dwelling known municipally as 3 Hurricane Road.

Representation

The Applicant, Al Heywood, was electronically represent.

Correspondence

1. Town of Pelham Planning
2. Town of Pelham Building
3. Town of Planning Public Works
4. Hydro One

5. Nancy Bellantino and Peter Moffat

Pre-Registered Members of the Public

~~1. Nancy Bellantino~~

Applicants Comments

The Applicant, Mr. Heywood voiced support of the recommendation report and rationale. He explained that this property was recently rezoned to a site-specific Residential 1 ("R1") Zone. Mr. Heywood expressed concern regarding the wording of condition three to the satisfaction of the Secretary-Treasurer, which requests that consent file B16/2021P, B17/2021P and B18/2021P receive final certification, concurrently. Ms. Holly Willford, Secretary-Treasurer explained that the intent of the condition is that file B16/2021P, B17/2021P and B18/2021P receive final certification prior to file B20/2021P receiving final certification. The Applicant agreed to accept the condition with this understanding.

Mr. Heywood requested that the condition of a Tree Savings Plan be removed. He indicated that the Tree/Landscape Review for 3 Hurricane Road supports this request. A Member responded that the Tree/Landscape Review speaks only from a landscape point of view. The Member further commented that developing a plan to save trees was a reasonable request. Mr. Heywood responded that this was once a landscaped property and does not contain endangered species. Mr. Heywood also noted that the size of the lot is 2.3 times larger than the minimum requirement within the R1 Zone. He stated that the severance line had been strategically placed to allow for the preservation of two large trees.

Mr. Heywood stated, in his opinion, that the condition requiring a Tree Savings Plan is inconsistent, as it was not previously requested for consent file B16/2021P, B17/2021P or B18/2021P. A Member emphasized that each application is considered independently.

To address the public comment concerning drainage, Mr. Heywood reiterated that a Lot Grading and Drainage Plan was required pursuant to the proposed conditions of consent. Mr. Heywood discussed the passage of water and grading that effects the neighboring property. A Member stated that the Town's Public Works staff must be satisfied with the submitted Lot Grading and Drainage Plan. The Member was satisfied that the public complaint would be addressed through this condition.

Public Comments

Ms. Sarah Leach, Assistant Secretary Treasurer indicated that the pre-registered member of the public, Ms. Nancy Bellantino, withdrew her request to speak. Ms. Leach noted she checked the clerks@pelham.ca email address at 4:46 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.

A Member stated that the second written submission from Ms. Nancy Bellantino and Mr. Peter Moffat in lieu of their attendance was received and addressed by the Applicant.

Members Comments

The Members indicated they had no comments.

Moved By Brenda Stan

Seconded By Sandra Marsh

**Application made for consent to partial discharge of mortgage and consent to convey 1,606 square metres of land (Part 1), for future construction of a single detached dwelling. 2,428 square metres of land (Part 2) is to be retained for continued residential use of the dwelling known municipally as 3 Hurricane Road; is hereby:
GRANTED;**

The above decision is subject to the following conditions:

To the Satisfaction of the Director of Public Works

- 1. That the applicant obtains a Driveway Entrance and Culvert Permit from the Public Works department for the construction of all new or modification of existing driveways or entrances. Installation and/or modification of all entrances shall be completed in accordance with Town Standards prior to consent and the applicant shall bear all costs associated with these works.**
- 2. 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.

3. Submit a comprehensive 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. That the applicant undertake a Tree Savings Plan identifying trees to be retained to the satisfaction of the Director of Community Planning and Development.
2. 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. 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.
3. That consent files B16/2021P, B17/2021P and B18/2021P receive final certification, from the Secretary-Treasurer, concurrently.

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**

April 7, 2021

May 4, 2021

Moved By Sandra Marsh

Seconded By Brenda Stan

THAT the Committee of Adjustment minutes dated April 7th, 2021 and May 4th, 2021, be approved.

Carried

8. **Adjournment**

Moved By Sandra Marsh

Seconded By Brenda Stan

BE IT RESOLVED THAT this Meeting of the Committee of Adjustment Hearing be adjourned until the next regular meeting scheduled for August 3rd, 2021 at 4:00 pm.

Carried

John Klassen, Chair

Secretary-Treasurer, Holly Willford