

September 1, 2021

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

Re: Minor Variance Application A32/2021P
1363 Station Street, Pelham
Part of Lot 20, Plan 717
Roll No. 2732 030 004 04100

The subject land is located on the east side of Station Street, lying north of Port Robinson Road, legally described above, and known locally as 1363 Station Street in the Town of Pelham.

The subject land is zoned Residential Multiple 2 'RM2' in accordance with Pelham Zoning By-law 1136(1987), as amended. The minor variance application requests relief from:

- i. **Section 5.54 (a) "Apartment Dwelling" Definition** – to permit dwelling unit entrances from the exterior without an interior corridor, whereas the by-law requires that dwelling units be accessible from a corridor system connecting with a common entrance from outside the dwelling;
- ii. **Section 6.16 (d) (i) "Ingress and Egress"** – to permit a minimum driveway width of 6.2m whereas the bylaw requires 7.5m;
- iii. **Section 6.16 (i) "Parking Area Location on Lot"** – to permit a minimum parking area distance of 3.7m to the street line and 0.9m to the south side lot line for the existing front parking area whereas the by-law requires 7.5m to the street line and 3m to the side lot line or rear lot line;
- iv. **Section 17.2 (g) "Minimum Rear Yard"** – to permit a minimum rear yard of 5m whereas the by-law requires 12m or one-half the height of the building, whichever is greater;
- v. **Section 17.2 (h) "Minimum Interior Side Yard"** – to permit a minimum interior side yard of 3.8m whereas the by-law requires 6m or one-half the height of the building, whichever is greater;
- vi. **Section 17.2 (j) "Minimum Landscaped Area"** – to permit a minimum landscaped area of 23% whereas the by-law requires 35%.

The proposal seeks to construct a two-storey multi-unit residential building in addition to the existing multi-unit residential building. In support of their application, the applicant also submitted a preliminary site plan, floor plans and elevation plans illustrating the proposed development and a Planning Justification Brief providing the rationale for the proposal.

Applicable Planning Policies

Planning Act (Consolidated July 2016)

Section 45 (1) states that the Committee of Adjustment may authorize minor variance provisions of the (Zoning) by-law, in respect of the land, as in its opinion is (1) minor in nature, (2) objectively desirable for the appropriate development or use of the land, and the general intent and purpose of the (3) Zoning By-law and (4) Official Plan are maintained.

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 1.1.3.2 states that land use patterns within settlement areas shall be based on densities and mix of land uses that efficiently use land and resources, are appropriate for and efficiently use infrastructure and public service facilities, minimize negative impacts to air quality and climate change and promote energy efficiency, prepare for the impacts of a changing climate, support active transportation and are transit and freight supportive.

Policy 1.1.3.3 states that municipalities shall identify appropriate locations and provide for the promotion of intensification and redevelopment accommodating a significant supply and range of housing options where it can be accommodated taking into account the building stock, availability of existing and planned infrastructure and public service facilities required to accommodate the needs of the development.

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 that appropriate development standards should be promoted which facilitate intensification, redevelopment and compact form, while avoiding or mitigating risks to public health and safety.

The proposed development is seeking to make more efficient use of the land by permitting the construction of a two-storey apartment dwelling behind the existing two-storey residential dwelling. The proposed density of the development is appropriate given site and neighbourhood context, while the addition of apartment units will add to the available housing options in the Downtown Fonthill neighbourhood, and would make more efficient use of existing infrastructure and public services which in turn minimizes land consumption and costs of servicing for the Town. To ensure that appropriate development standards be applied and promoted with the proposed development, the applicant must submit a Functional Servicing Report and a Stormwater Management Report with the site plan application to the Town for the protection of public health and safety.

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 also identifies this area as having composite archaeological resource potential.

The proposed minor variance application has been submitted to seek relief from several site-specific and general zoning provisions in order to facilitate the addition of a two-storey apartment dwelling, additional designated parking spaces, and some minor site modifications. Planning staff are of the opinion the requested zoning relief is consistent with the PPS and promotes appropriate development standards that help facilitate compact form while continuing to meet intensification policy objectives. The proposed development should not cause adverse impacts on the use of the lands or neighbourhood pending more professional reports required at the site plan stage.

Growth Plan for the Greater Golden Horseshoe (2019)

This Plan informs decision-making regarding growth management and environmental protection in the Greater Golden Horseshoe (GGH). All decisions made after May 16, 2019 that affect a planning matter will conform with this Growth Plan, subject to any legislative or regulatory provisions providing otherwise. The policies of this Plan take precedence over the PPS to the extent of any conflict.

The subject parcel is located within a 'Settlement Area' according to the Growth Plan. Guiding principles (among others) 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 2.2.1.2 states that 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 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 subject site is located within the built boundary with access to existing infrastructure and is within walking distance to schools, public / private amenities, institutional uses and shopping facilities. The proposed variances will support the achievement of a *complete community* by adding additional residential dwelling units in an area that is appropriate to do so while contributing in providing diversified housing options in the neighbourhood.

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 that 'Urban Areas' will be the focus for accommodating the Region's growth and development.

Policy 4.G.8.1 states that *Built-Up Areas* will be the focus of residential intensification and redevelopment.

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.

Policy 11.A.1 encourages the provision of a variety of housing types within urban communities and neighbourhoods to serve a variety of people as they age through their life cycle.

The requested variances to allow for the addition of an apartment dwelling will facilitate additional residential intensification and redevelopment in an area that is appropriate to do so. Further, as indicated in the pre-consultation summary, the Region generally has no objection to the proposed development subject to the availability of adequate municipal services and infrastructure and local Official Plan policies and compatibility concerns, with the condition that a stage 1-2 Archaeological Assessment be submitted with the site plan application. It is Planning staff's opinion that the requested variances conform to the policies of 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 'Urban Living Area / Built Boundary'.

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) – states the objectives of this Plan to protect and enhance the character of the existing Urban Areas, which include (among others):

- To maintain and enhance the Urban Areas as diverse, liveable, safe, accessible and attractive communities.
- 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 maintain and enhance the character and stability of existing and well-established residential neighbourhoods by ensuring that development and redevelopment is compatible with the scale and density of existing development.
- To foster a sense of civic identity through a high standard of urban design in public and private development.
- To encourage the development of neighbourhoods which are compact, pedestrian-friendly and provide a mix of housing types.

It is noted that the minor variance application seeks to legalize the following three legal non-conforming provisions: minimum parking area distance to the street and side lot line, minimum driveway width, and minimum interior side yard setback. The remaining three variances are requested to address the zoning deficiencies resulting from the apartment building development.

Policy A2.7.2 states 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 Town's Cultural Heritage Master Plan identifies the subject lands as having composite potential for deeply buried archaeological resources. The applicant must at minimum, conduct a Stage 1-2 Archaeological Assessment prepared by a licensed archaeologist and receive clearance from the Ministry of Heritage, Sport, Tourism & Culture. The Assessment must cover the building envelope of the proposed apartment dwelling, as well as any area that is subject to excavation, and be accepted by the Ministry prior to submission of the Site Plan application. The licensed archaeologist may recommend further archaeological analysis or preservation steps be taken.

Policy B1.1.1 recognizes the existing urban area of Fonthill and the role the Town will need to accommodate various forms of residential intensifications, where appropriate.

Policy B1.1.3 provides policy guidance and direction with respect to intensification proposals within the Urban Living Area / Built Boundary. While intensification opportunities are encouraged, proponents will be expected to demonstrate, that such proposals will be respectful of, compatible with, and designed to be integrated with the neighbourhood where they're proposed.

In considering residential intensification proposals, the following criteria are applicable:

- a) Schedules A1 and A2 identify a number of areas that may be good candidates for residential intensification. This does not preclude consideration elsewhere in the *Urban Living Area* provided these sites abut arterial or collector roads or are located on a local road on a site that is no further than 100 metres from an intersection with a collector or arterial road;

- ✓ The subject lands front Station Street, a local road but are located within 100 m of a designated collector road (Port Robinson Road) according to Schedule 'C'.
- b) Intensification and redevelopment proposals are encouraged to achieve a unit density and housing type that is in keeping with the character of the neighbourhood density;
 - ✓ The character of the neighbourhood density is defined by a range of mixed housing types and densities, with mainly single-detached and semi-detached housing in the established neighbourhood to the west, the existing two-storey, 8-units apartment dwelling on the subject lands, and planned future residential neighbourhood to the south and east side, which will be a mix of low and medium density, allowing for townhouses and small scale apartment dwellings which is proposed to be similar in scale and density to this development.
- c) Residential intensification and redevelopment proposals located on lands which abut local roads shall maintain the unit density and unit type of the surrounding neighbourhood, but may through a Zoning By-law Amendment, increase the unit density by up to 25% of the existing gross density of lands located within 300 metres of the site, provided the resultant development will be characterized by quality design and landscaping, suitable building setbacks, and further that parking areas and traffic movements will not negatively impact the surrounding neighbourhood from the perspectives of safety or neighbourhood character;
 - ✓ The proposed density of development at 48 units per hectare complies with the RM2 Zone which permits up to 65 units per hectare.

Policy B1.1.5 requires that when considering a Zoning By-law amendment and site plan application to permit a semi-detached dwelling, townhouse, multiple or apartment development, Council shall be satisfied that the proposal:

- a) Respects the character of adjacent residential neighbourhoods, in terms of height, bulk and massing;
 - ✓ The additional dwelling is of similar size as the existing apartment building, and the development is within the maximum lot coverage permitted. The proposed two-storey apartment has a peak height of 8.23m (27ft) which is of similar height as the existing on-site building and dwellings in proximity and is well below the maximum height allowed at five-storey.
- b) Can be easily integrated with surrounding land uses;
 - ✓ The development is ground-oriented and the overall architectural style is compatible with the surround neighbourhood.
- c) Will not cause or create traffic hazards or an unacceptable level of congestion on surrounding roads; and
 - ✓ Traffic congestion is not anticipated as a result of the development which adds 4 additional units.

- d) Is located on a site that has adequate land area to incorporate required parking, recreational facilities, landscaping and buffering on-site.
- ✓ The proposal provides sufficient amount of parking and amenity area, despite the lack of landscaped area, there should be adequate amount of buffering which separates the new development from adjacent lands.

Planning staff are of the opinion that the proposal is in conformity with the Town of Pelham Official Plan by allowing for additional housing opportunities in an area that is appropriate to do so, accompanied with building and site design that displays character compatibility with the surrounding neighbourhood. The proposed development should not conflict with any policies subject to demonstration of appropriate urban design and fulfillment of the conditions of approval which must be satisfied prior to the submission of the Site Plan application.

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

The subject land is zoned Residential Multiple 2 'RM2' in accordance with Pelham Zoning By-law 1136(1987), as amended. Under the default regulations of the Zoning By-law, the minor variance application requests relief from:

- i. **Section 5.54 (a) "Apartment Dwelling" Definition** – to permit dwelling unit entrances from the exterior without an interior corridor, whereas the by-law requires that dwelling units be accessible from a corridor system connecting with a common entrance from outside the dwelling;
- ii. **Section 6.16 (d) (i) "Ingress and Egress"** – to permit a minimum driveway width of 6.2m whereas the bylaw requires 7.5m;
- iii. **Section 6.16 (i) "Parking Area Location on Lot"** – to permit a minimum parking area distance of 3.7m to the street line and 0.9m to the south side lot line for the existing front parking area whereas the by-law requires 7.5m to the street line and 3m to the side lot line or rear lot line;
- iv. **Section 17.2 (g) "Minimum Rear Yard"** – to permit a minimum rear yard of 5m whereas the by-law requires 12m or one-half the height of the building, whichever is greater;
- v. **Section 17.2 (h) "Minimum Interior Side Yard"** – to permit a minimum interior side yard of 3.8m whereas the by-law requires 6m or one-half the height of the building, whichever is greater;
- vi. **Section 17.2 (j) "Minimum Landscaped Area"** – to permit a minimum landscaped area of 23% whereas the by-law requires 35%.

The minor variance application requests certain pre-existing legal non-conforming conditions (minimum driveway width, parking area distance to the street line and side lot line, and interior side yard setback) to be legally recognized while others are requested to accommodate the

proposed development.

The Committee of Adjustment, in Section 45 (1) of the Planning Act, may authorize a minor variance from the provisions of the by-law, subject to the following considerations:

Minor Variance Test	Explanation
1. The variance is minor in nature.	<p>The proposed reduced rear yard setback is minor overall provided the proposed building height is two-storey, and that a planting strip will be provided along the rear lot line, creating a physical buffer that separates the proposed 'Apartment Dwelling' building and the rear lot.</p> <p>The proposed reduced landscaped area is minor overall as the front yard landscaping area remains unchanged while the site provides an abundance of amenity area for residents to enjoy. Moreover, as stated in the pre-consultation summary, the applicant must submit a landscape plan detailing tree retention, landscaping features, proposed plant materials and other landscaping details and submit as part of site plan application to address landscaping requirements.</p> <p>The variance of the "Apartment Dwelling" Definition is minor as given the size and layout of the new ground-oriented apartment building, replacing the interior corridor access system with exterior individual entry would be more appropriate and suitable, while the resulting impact would be negligible.</p> <p>The impacts resulting from the pre-existing legal non-conforming conditions on the subject and adjacent properties are minor overall, as the fence along the south lot line provides buffering between the subject parcel and the neighbouring site, which helps to negate impacts from the reduced side yard setback and parking area layout. The reduced width for the driveway will have minor impact overall, as the parking area will still function well and allow for safe and practical movement of vehicles. The proposed development should not exacerbate the existing conditions and resulting impacts.</p>

	<p>The variances are considered minor in nature as no adverse impacts are anticipated. The proposed apartment building and site design is generally consistent with the existing neighbourhood character and built form and the proposed infill redevelopment is appropriate from a land use compatibility, housing type and density perspective.</p>
<p>2. The variance is desirable for the development or use of the land.</p>	<p>The moderate two-storey height will help to minimize the building's overall visual impacts on the subject and adjacent lands with regards to the reduced rear yard setback, and the reduced landscaped area can be remedied through properly designed, well placed and high quality landscape treatment which must be displayed in the requested landscape plan at the site plan stage. The alternative entrance system proposed for the apartment building differing from the interior corridor system is desirable as it allows for more efficient use of the building's interior space without having to compromise for a common lobby which would be impractical given the proposed building size and design.</p> <p>Adequate amount of open space and amenity area remain for recreational use. The proposed spatial separation between the existing and the proposed building is also appropriate and the general setback from the required yard is consistent with contemporary development standards and would not impede the neighbouring residents' personal privacy and enjoyment of their lands.</p> <p>The variances are considered desirable as they will help facilitate the development of a new apartment building which has a moderate height and massing and is designed to fit with the overall neighbourhood character with a ground-oriented building type accompanied with suitable exterior finishes. It will also be desirable to the development and use of the land as the subject lands are designated in the built-up area with the appropriate zoning which allows for further residential intensification and provides opportunities for residents to live close to the</p>

	core centre of the Town and be able to access services by in proximity.
3. The variance maintains the general intent and purpose of the Official Plan.	The variances maintain the general purpose and intent of the Official Plan as it implements the vision for reasonable residential intensification in the urban living area designation and the development would not compromise the neighbourhood's ability to be adequately serviced, maintain land use compatibility, while also providing additional residential apartment units thus increasing variety in the available housing stock.
4. The variance maintains the general intent and purpose of the Zoning By-law.	The variances maintain the general intent of the Zoning By-law because the requested variances will allow for the logical, and appropriate use of the land in providing additional apartment dwelling units in a zone that is suitable to do so, all the while still maintaining adequate land for parking spaces, outdoor amenity and open spaces. It is also recognized that 3 of the variances address the non-complying circumstances of the existing building which has demonstrated fit and compatibility with the neighbourhood thereby maintaining the intent of the By-law that permits apartment dwellings at this location.

Agency & Public Comments

On July 30, 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 Division (August 12, 2021)
 - A building permit is required for the proposed 2 storey apartment building.
- Public Works Department (August 25, 2021)
 - The following comments shall be addressed to the satisfaction of the Director of Public Works. Note that further comments to be forthcoming on subsequent submissions.
 - The Town of Pelham Public Works Department have reviewed the following documentation for the purpose of this application:
 - Site Plan (SP1), by Zoltan Engineering, dated July 8, 2021;
 - Site Servicing

- Functional Servicing Report
 - At the Pre-consultation stage, Town of Pelham staff required that a Functional Servicing Report be submitted with Minor Variance application to confirm the capacity requirements for the new development at 1363 Station Street. Town staff also require that the developer show how storm water runoff will be controlled on the site.
- Water Servicing
 - Presently this site is being serviced by two (2) water service connections: a 20mmØ line and a 40mmØ line from Station Street. As per Town of Pelham Engineering Standards, this site may only be serviced by one (1) water connection. The unused existing water service to property line is to be abandoned and removed back to the main.
- Storm Sewer Connection
 - As per the Town of Pelham Engineering Standards, the developer is required to ensure that all surface water run-off is contained on site.
 - Town staff will require a Stormwater Management Report, which details stormwater management strategies and provides all necessary calculations to demonstrate post development runoff rates are within allowance limits.
 - Town of Pelham staff require that the developer construct a new storm sewer to receive storm water run-off from the site. Please note that a maintenance hole at the property line will also be required.

A written submission was received from Jennifer Vida on behalf of Hummel Properties Inc. which owns property directly north and east of the subject lands. The written submission details Hummel Properties Inc.'s support of the proposed development and that the proposed variances satisfy the 4 tests as set out by the Planning Act and that the proposed setbacks will not negatively impact adjacent area.

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 July 2, 2020 to discuss the subject application. In addition to plan materials, which include a Site Plan, Survey Plan, Floor Plan and Front Elevation Plan, a Planning Justification Brief prepared by Wellings Planning Consultants Inc. dated June 25, 2021 was also submitted in support of the proposed development. Planning staff have reviewed the *Planning Justification Brief*, as well as all agency and public correspondence submitted to date.

The subject lands are located on the northeast corner of Port Robinson Road and Station Street. The property is surrounded by large amount of currently vacant residential lands on the east and south side which are proposed to be further developed to be future residential neighbourhoods. On the immediate north side of the property lies a currently vacant residential parcel which is proposed to be rezoned from Residential 2 (R2) to a site-specific Residential Multiple 2 (RM2) zone to permit the development of a 4-storey apartment dwelling containing 24 units; this application is still pending a decision and the applicant is addressing issues raised by the public. On the west side of the property is an established residential neighbourhood which mostly consists of single-detached and semi-detached residential dwellings.

With the analysis given in the above sections, Planning staff are of the opinion that the proposal applies current planning and development principles and provide design flexibility where suitable to do so. The proposal makes efficient use of the land, will not result in overbuilding of the property, will not alter the view, sightlines or personal enjoyment of the subject property or any neighbouring properties, and should not negatively impact the surrounding neighbourhood with regards to land use compatibility, traffic and privacy. It is noted that site servicing and storm sewer connection must be addressed at the site plan stage with the preparation and submission of a Functional Servicing Report and Stormwater Management Report, as well as any other requirements outlined in this report to the satisfaction of the Town.

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

Given this analysis, Planning staff recommend that minor variance file A32/2021P **be approved** subject to the following conditions:

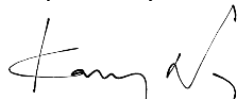
THAT the applicant

To the satisfaction of the Director of Planning and Development, prior to the issuance of a building permit:

1. Conduct a Stage 1-2 Archaeological Assessment and receive Clearance from the Ministry of Heritage, Sport, Tourism & Culture Industries, prior to site plan application.
2. Enter into a Site Plan Agreement with the Town addressing the following:
 - a. Submission and approval of a Functional Servicing Report to confirm the capacity requirements for the new development.

- b. Submission and approval of a Stormwater Management Report, which details stormwater management strategies and provides all necessary calculations to demonstrate post development runoff rates are within allowance limits. Report must show that all surface water run-off is contained on site and how storm water runoff will be controlled.
- c. Abandon and remove the unused existing water service connection line.
- d. Construct a new storm sewer to receive storm water run-off from the site, a maintenance hole at the property line will also be required.
- e. Submit a landscape plan detailing landscape treatments and features, plant materials and landscape specification, tree preservation plan and any other additional information necessary for clarity.

Prepared by,



Kenny Ng, B.ES
Planner

Approved by,



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