

December 1, 2021

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

Re: Minor Variance Application A38/2021P
58 Bergenstein Crescent, Pelham
Lot 84 on Plan 59M-434
Roll No. 2732 030 020 05186

The subject land is located on the east side of Bergenstein Crescent, lying east of Lametti Drive, West of Rice Road, legally described above, and known locally as 58 Bergenstein Crescent in the Town of Pelham.

The subject land is zoned a site-specific Residential 2-254 "R2-254" in accordance with Pelham Zoning Amending By-law 3705(2016), as amended. The minor variance application requests relief from:

- i. **By-law 3705(2016) 254. Section R2-254 (f) "Minimum Rear Yard"** – to permit a minimum rear yard of 4.91m whereas the by-law requires 7.5m.

The proponent seeks to construct a rear deck.

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.

Regional Official Plan (Consolidated, August 2014)

The Regional Official Plan designates the subject land as 'Built-up Area' within the Urban Area Boundary.

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 'Secondary Plan Area' within the Fonthill Settlement Area. More specifically, the East Fonthill Secondary Plan designates this parcel as 'EF – Low Density Residential'.

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.

The proposed minor variance to seek relief from rear yard setback requirement should not compromise drainage and privacy and is in keeping with the existing character of the residential neighbourhood. Planning staff are of the opinion that the proposal is in conformity with the Town of Pelham Official Plan.

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

The subject land is zoned a site-specific Residential 2-254 "R2-254" in accordance with Pelham Zoning By-law 1136(1987), as amended. Under the regulations of the Zoning By-law, the minor variance application requests relief from:

- Section R2-254 (f) "Minimum Rear Yard"** – to permit a minimum rear yard of 4.91m whereas the by-law requires 7.5m.

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.	The proposed reduced rear yard setback is minor overall as the proposed addition is reasonably sized and would not substantially remove outdoor amenity space of the parcel as the proposed rear deck is considered to be outdoor amenity space. Further, it is unlikely that the addition will have any shadowing projection onto adjacent properties. It is noted that the property backs onto the watercourse which gives the appearance of more space as well.
2. The variance is desirable for the development or use of the land.	The variance is desirable as it will provide for a deck that will improve the outdoor amenity space for the residents of the dwelling while still maintaining adequate amenity space on the ground for other outdoor uses such as gardening or play area. The proposed raised rear deck is not uncommon with other decks in the neighbourhood dwellings have a rear walkout from the basement.
3. The variance maintains the general intent and purpose of the Official Plan.	The variance maintains the general purpose and intent of the Official Plan as it does not compromise the neighbourhood's ability to be adequately serviced, maintain land use compatibility, while also improving the property value and aesthetics by providing a rear yard deck.
4. The variance maintains the general intent and purpose of the Zoning By-law.	The variance maintains the general intent of the Zoning By-law as the requested variance will allow for the logical, and appropriate extension of the dwelling while still maintaining adequate land for outdoor amenity and landscaped area.

Agency & Public Comments

On November 2, 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 (November 23, 2021)
 - A building permit is required for the proposed uncovered deck.
- Public Works Department (November 2, 2021)
 - No comments or concerns.

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

Planning Staff Comments

The proposed minor variance application was circulated to Town Planning, Building and Public Works staff for pre-application review and comments prior to submission.

The subject lands are located on the west side of Rice Road, lying south of Summersides Boulevard. The property is surrounded by the following:

- North: Watercourse, vacant residential land
- East: Residential use on agricultural lots
- South: Residential neighbourhood
- West: Residential neighbourhood

The proposed minor variance application seeks zoning relief to permit a total encroachment of 2.59 metres for an uncovered deck resulting in a rear yard setback of 4.91 metres.

In considering the reduced rear yard setback, staff is of the opinion that although the minimum required rear yard will be encroached, the impact on the subject property and adjacent properties is negligible. The addition's side yard setback is in keeping with the existing dwelling and the addition's modest size and placement will help to minimize its overall visual impact and will not result in the overbuilding of this property.

Planning staff are of the opinion that the proposal applies current planning and development principles and providing 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 incompatibility, traffic, privacy and storm water runoff.

In Planning staff's opinion, 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 A38/2021P **be approved** subject to the following condition:

THAT the applicant

- Apply for and receive Building Permit for the proposed uncovered deck.

Prepared by,



Kenny Ng, B.ES
Planner

Approved by,



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