

Committee of Adjustment AGENDA

CofA 01/2022

January 11, 2022

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**

- 2.1. **Land Recognition Statement**

We begin this meeting by acknowledging the land on which we gather is the traditional territory of the Haudenosaunee and Anishinaabe peoples, many of whom continue to live and work here today. This territory is covered by the Upper Canada Treaties and is within the land protected by the Dish With One Spoon Wampum agreement. Today this gathering place is home to many First Nations, Metis, and Inuit peoples and acknowledging reminds us that our great standard of living is directly related to the resources and friendship of Indigenous people.

3. **Disclosure of Pecuniary Interest and General Nature Thereof**
4. **Requests for Withdrawal or Adjournment**
5. **Applications for Minor Variance**

5.1. A1/2022P - 42 Philmori Boulevard

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Niagara Region
5. Applicant Presentation
6. Gary Caron
7. Fernando Visbal and Maria Gonzalez
8. Iqbal Khan
9. Unidentified Individual
10. Unidentified Individual

Pre-Registered Member of the Public

1. Iqbal Khan

6. Applications for Consent**7. Minutes for Approval****8. Adjournment**

January 5, 2021

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

Re: Minor Variance Application A1/2022P
42 Philmori Boulevard, Pelham
Plan 59M-403, Lot 114
Roll No. 2732 020 010 03514

The subject land is located on the north side of Philmori Boulevard, lying east of Joyce Crescent, legally described above, and known municipally as 42 Philmori Boulevard in the Town of Pelham.

The subject land is zoned 'Residential 1-187' (R1-187) in accordance with Pelham Zoning By-law 1136 (1987), as amended by By-law No. 3325 (2012). The minor variance application requests relief from:

- i. **Section 30 (Exceptions) R1-187(e) "Minimum Interior Side Yard"** - to permit a minimum interior side yard of 1.9m whereas the bylaw requires 3m.
- ii. **Section 30 (Exceptions) R1-187(g) "Minimum Rear Yard"** - to permit a minimum rear yard of 11.8m whereas the bylaw requires 15m.

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 1.1.3.4 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 minor variance application has been submitted to seek relief from minimum interior side yard and rear yard requirement in order to construct a single-detached residential dwelling on the vacant lot.

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.

Policy 11.A.2 states the Region encourages the development of attractive, well designed residential construction that:

- c) Emphasizes the entrance.
- d) Is accessible to all persons.
- g) Provides an attractive, active transportation friendly streetscape.
- h) Contributes to a sense of safety within the public realm.
- j) Creates or enhances an aesthetically pleasing and functional neighbourhood.

Policy 7.B.1.19 states that where development or site alteration is approved within the Core Natural Heritage System or adjacent lands as set out in Table 7-1 the applicant shall submit a Tree Saving Plan maintaining or enhancing the remaining natural features and ecological functions. The Plan shall be prepared in accordance with the Regional Forest Conservation By-law and the

local tree conservation by-law as appropriate and its implementation monitored by a member of the Ontario Professional Forestry Association

The subject property is impacted by the Region's Core Natural Heritage System (CNHS), consisting of Provincially Significant Earth Science Area of Natural and Scientific Interest (ANSI) and Significant Woodland. The proposed reduction in the minimum rear yard setback would permit development in closer proximity to these features.

Based on the nature of the structure proposed within the reduced setback (i.e. a covered deck only, no pool or other accessory structures), and the limited proposed encroachment, Regional Environmental Planning staff requested the completion of an Edge Management Plan in lieu of an Environmental Impact Study (EIS) at the pre-consultation stage, which identifies additional native vegetative plantings adjacent to the rear property line. Staff have reviewed the Edge Management Planting Plan, prepared by Beacon Environmental (dated August 18, 2021) and confirm that the Plan adequately addresses Regional concerns. Additionally, to further mitigate potential impacts to the Region's CNHS, staff recommend that the Committee also require the installation of permanent fencing without any gates along the extent of the rear lot line, unless already installed at that location.

Regional staff has no objection to this minor variance application as the development generally aligns with Provincial and Regional policies. Regional staff were satisfied with the submitted Edge Management Planting Plan and has included recommended conditions to protect the abutting Regional Core Natural Heritage System features.

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 "Low Density Residential – Special Policies" within the 'North West Fonthill Secondary Plan' area of the Town Official Plan.

Policy A2.1.2 Natural Environment – states the natural environment objectives of this Plan are to make planning decisions that consider the health and integrity of the broader landscape as well as the long term and cumulative impacts on the ecosystem.

In response to this policy requirement, the applicant has submitted an Edge Management Planting Plan, prepared by Beacon Environmental (dated August 18, 2021) to ensure that the integrity of the adjacent natural landscape is maintained and protected and similar to the

Region's requested condition, Town will request the applicant install permanent fencing along the rear lot line which must be maintained and remain undisrupted by any form of site alteration or redevelopment in perpetuity.

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.

Policy B1.6.2.3 (Low Density Residential – Special Policies) states that it is the intent of the Town to permit large lot single-detached dwelling units in an environmentally sound manner, including the protection of the interpretive, educational and scientific value of the surrounding landscape.

The proposed minor variance would facilitate the construction of one new single-detached dwelling on the proposed lot. The neighbourhood character is strictly ground-oriented residences (i.e. single detached) on large lots with a mixture of 1 & 2-storey houses. The proposed dwelling is compatible in area, frontage, massing, height and orientation with the adjacent and broader neighbourhood.

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.

Potential archaeological resources have been addressed in the subdivision application which resulted in the creation of the lot and therefore, no additional archaeological work is required for this proposal.

Policy E1.5 states that in addition to the Planning Act's four tests considered in determining whether to grant a minor variance, applicants should be prepared to demonstrate a need for the requested relief on the basis that the subject zoning provision is not warranted in a particular circumstance, causes undue hardship, or is otherwise impossible to comply with.

The applicant has indicated in the submitted planning justification brief that the reason it is not possible to comply with the zoning provisions is because of the natural configuration and location of the subject lot, being an elbow street unit with a slightly irregular pie-shape due to the bend of the road. As a result, the lot has a narrower lot frontage with a wider rear lot line at the back. To accommodate for this unique situation, a reduction of the interior side yard setback has been requested to facilitate the particular building design.

Town Planning staff are of the opinion the proposed minor variance conforms to the local Official Plan as the application is able to address the adjacent natural heritage concern with an integrated edge management plan, as well as providing a physically compatible and appropriate development that can compliment the character of the surrounding neighbourhood in terms of aesthetics, privacy, sun/shadowing and introduce minimal impact to the view corridors along roadways and between buildings. The height, siting and the orientation of the building aligns with the existing residential properties, while the scale and the massing of the building are moderate in comparison with properties in proximity. It is not an oversized building that would create outstanding nuisance and it is therefore, able to maintain the intent and purpose of the Official Plan without being disruptive or unpleasant.

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

The subject land is currently zoned a site-specific 'Residential 1-187' (R1-187) according to the Zoning By-law. The permitted uses include:

- a) One single detached dwelling;
- b) Accessory uses;
- c) Home occupations.

The minor variance application requests relief from:

- i. **Section 30 (Exceptions) R1-187(e) "Minimum Interior Side Yard"** - to permit a minimum interior side yard of 1.9m whereas the bylaw requires 3m.
- ii. **Section 30 (Exceptions) R1-187(g) "Minimum Rear Yard"** - to permit a minimum rear yard of 11.8m whereas the bylaw requires 15m.

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 interior side yard setback is considered minor in nature given that the reduction is not too large overall and will not result in detrimental impacts to the adjacent neighbourhood in terms of additional

	<p>shade potential, privacy, spacing and openness, stormwater runoff concern and the availability of amenity space. The view corridors into the escarpment along roadway and between the buildings from the sidewalk which situates on the other side of the street will be largely unaffected and the viewing opportunity is preserved with minimal disruption given the standard height and massing of the building. Despite being a somewhat bulkier built form than adjacent units, the building can minimize the visual impact through its white brick exterior and contrasting roof and cladding materials.</p> <p>The proposed reduced rear yard setback is considered minor in nature given that the reduction is relatively minimal and will not result in detrimental impacts to the adjacent natural heritage features, as well as the neighbourhood at large. The proposed encroachment (covered deck) will have minimal impact while the Edge Management Planting is sufficient in meeting Regional and Town natural heritage feature preservation and buffer requirement.</p>
2. The variance is desirable for the development or use of the land.	<p>The variance to reduce the minimum interior side yard is desirable for the lands as it will allow for the creation of a reasonably sized dwelling on a large, vacant residential lot within the delineated built boundary of the Fonthill urban settlement area. The reduced side yard setback will be negligible in terms of resulting impacts and would appear indistinguishable from a streetscape perspective. It mostly follows the existing pattern of development in adjacent areas with the exception of a slight encroachment into the side yard which will not be discernable from the public realm perspective.</p> <p>The variance to reduce the minimum rear yard is desirable as it gives an opportunity to review an existing neighbourhood which situates adjacent to a natural heritage feature and in response to the development, appropriate measures and studies have been conducted and are able to meet Regional and Town requirement. The reduction will facilitate a less disruptive structure (covered</p>

	deck) rather than a building foundation which will likely result in higher levels of impacts.
3. The variance maintains the general intent and purpose of the Official Plan.	The variances to reduce the minimum side and rear yard setback maintain the policy intent of the Official Plan as they allow for a modest, compatible building in an existing neighbourhood within the delineated built boundary. It will add to the existing housing supply, support infrastructure maintenance and make more efficient use of a large existing vacant residential lot. The minor reduction in side and rear yard setback will not negatively impact the character of the neighbourhood nor disrupt the existing streetscape but instead help create a form of diversification to the existing neighborhood.
4. The variance maintains the general intent and purpose of the Zoning By-law.	The variance seeking reduction of the minimum side and rear yard setback maintain the general intent of the Zoning By-law as the proposed building will largely follow the zone requirements with minimal modifications. The spacing of the houses are marginally varied while the privacy, density, built form and character are fundamentally in-keeping with the surrounding neighbourhood and would not incur incompatibility.

Agency & Public Comments

On November 26, 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 (December 20, 2021)
 - Building permit required for the proposed covered rear deck.
- Public Works Department (Jan 5, 2022)
 - 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 developer should be made aware that there is an existing stormwater management easement located along the northern limits of the property as shown on the submitted plans. Municipal Easements are required to

- protect and ensure access to the Municipal infrastructure located on the subject property.
- The developer should be made aware that no development will be allowed on the easement, with the exception of minor landscaping (restricted to lower type vegetation, no large trees) in order to maintain access to an easement in perpetuity.
 - Please ensure that 1 metre offset from the side yard lot lines remain free and clear of all encumbrances for swales and drainage purposes.
 - That the applicant submits an overall lot grading and drainage plan to demonstrate that the drainage does not negatively impact nor rely on neighbouring properties, to the satisfaction of the Director of Public Works or his designate.
 - It is the responsibility of the owner/developer to pave the driveway apron within one year of occupancy being granted.
 - At future development application stages, the Town of Pelham will require a stormwater management brief outlining where the runoff will be directed and calculations showing that the existing infiltration trenches can accommodate the additional runoff. Staff require that the additional runoff will not negatively effect the embankments at the rear of the property.
- Niagara Region Planning and Development Services (January 3, 2022)
 - No objection to this minor variance application from a Provincial or Regional perspective, subject to the satisfaction of any local concerns, and the following conditions:
 - That the Edge Management Planting Plan, prepared by Beacon Environmental (dated August 18, 2021) be implemented on the subject property. If the Town requires this plan to be revised, it shall be submitted for the review and approval of Niagara Region prior to implementation; and,
 - That the owner install permanent fencing along the rear property line, without a gate, to prohibit access from the subject property to the abutting Regional Core Natural Heritage System features.

Four (4) public comments were received from neighbouring property owners, which are included on the Committee's Agenda and summarized below:

- Iqbal Khan (December 14, 2021)
 - The existing subdivision puts emphasis on the larger lot size and permissible footprints of houses, to preserve escarpment habitat and crowding of houses with sufficient side and backyard setbacks. The 3 metres side yard setback was intended to keep escarpment view visible from road.

- A reduced side yard setback will change the symmetry and value of adjacent and other house in line and also obstruct escarpment view by reducing space between houses.
 - No objection to the reduced rear yard setback.
- Fernando Visbal & Maria Cecilia Gonzalez (December 17, 2021)
 - The reduce interior side yard setback will break the symmetry of adjacent houses, as the reduced distance will partially block the view to the tree line of the escarpment, and worried that own house will appear smaller without the spacious side yards.
 - The value of own property could potentially be negatively impacted.
- Gary Caron (December 17, 2021)
 - Would like a revised plan to respect the side yard setback to allow green space in the backyards to be viewed for the tree lined properties. Believes an oversized build would spoil the look of the street.
 - No objection to the reduced rear yard setback.
- Unidentified Individual (January 4, 2021)
 - Concerned that the view of the escarpment will be obstructed.
 - Felt that the size of the lots and the spacing between the houses gives an 'exclusive' feel to the subdivision as compared to other municipalities and subdivisions within the Niagara Region.

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 7, 2021 to discuss the subject applications. In addition to the application, an architectural plot plan, edge management plan, stormwater management assessment, building elevations and a Planning Justification Brief were also provided in support of the proposed development.

The subject lands are located on the north side of Philmori Boulevard lying west of Haist Street, and are surrounded by existing residential neighbourhood consist of single detached residential dwellings.

The proposed minor variance application seeks zoning relief to permit a reduction of 1.1 metres for the minimum interior side yard setback requirement and a reduction of 3.2 metres for the minimum rear yard setback requirement.

In considering the reduce rear yard setback, staff is of the opinion that although the development will result in a minor encroachment to the adjacent natural heritage feature, the impact on the subject property and adjacent properties, as well as to the natural heritage feature is minimal.

The required reduction is marginal and the form of encroachment (covered deck) will not result in adverse impact to the foundation or result in long term sustainability concern. It is noted however, that the implementation of the edge management planting must respect the existing stormwater easement and the 1 metre offset from the easement must be free of any structure or development.

In considering the reduced interior side yard setback, staff is of the opinion that although the development will slightly deviate from the existing neighbourhood condition in terms of the unusually high separation distance between each building, the proposed development is able to maintain an abundance of space between immediate buildings and the building itself is not oversized as it stays below the zoning limit for height and lot coverage requirement, while the massing and scale, as well as the design and architectural style of the house is comparable and able to compliment the existing neighbourhood. The lot also suffers slightly from being an elbow street unit which gives it an irregular, narrower lot frontage than proximate lots, and thus making it difficult in creating a building envelope that maintains the general orientation which aligns with adjacent units. With regards to the concerns raised by the public with respect to the impact on the view of the escarpment landscape, while the side yard setback is proposed to be reduced, it is not being reduced to such an extent that the view of the escarpment is lost and the reduction is such that the impact on the view would be negligible and not discernable from the public realm. It is therefore, in planning staff's opinion, a reasonable request to permit a reduction in the minimum side yard setback in this instance.

Planning staff are of the opinion that the proposal applies current planning and development principles and makes efficient use of the land and infrastructure, and should not negatively impact the surrounding neighbourhood with regards to land use incompatibility, traffic, privacy, view corridor and storm water runoff. The requested variances are minor in nature, conform to the general policies and intent of both the Official Plan and Zoning By-law and are appropriate for the development and use of the land.

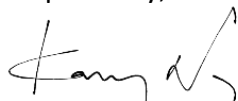
Given this analysis, Planning staff recommend that minor variance file A1/2022P **be approved** subject to the following conditions:

THAT the applicant

- Address the following to the satisfaction of the Niagara Region:
 - That the Edge Management Planting Plan, prepared by Beacon Environmental (dated August 18, 2021) be implemented on the subject property. If the Town requires this plan to be revised, it shall be submitted for the review and approval of Niagara Region prior to implementation; and,

- That the owner install permanent fencing along the rear property line, without a gate, to prohibit access from the subject property to the abutting Regional Core Natural Heritage System features.
- Submit an overall lot grading and drainage plan to demonstrate that the drainage does not negatively impact nor rely on neighbouring properties, to the satisfaction of the Director of Public Works or his designate.
- Apply for and receive all necessary building permits prior to construction commencing.

Prepared by,



Kenny Ng, B.ES
Planner

Approved by,



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

Memo

To: Sarah Leach, Planner

CC: Jason Marr, Director of Public Works; Barb Wiens, Director of Planning and Development; Derek Young, Manager of Engineering

From: Taylor Boyle, Engineering Technologist

Date: 5th January 2022

RE: Minor Variance Application – 42 Philmori Boulevard

The Public Works Department has reviewed the submitted documentation regarding the proposed Minor Variance Application for 42 Philmori Boulevard. The applicant is seeking relief from:

Section R1-187(e) “Minimum Interior Side Yard” – to permit a minimum interior side yard of 1.9m on the east and west side, whereas the by-law requires 3m; and

Section R1-187(g) “Minimum Rear Yard” – to permit a minimum rear yard of 11.8m whereas the by-law requires 15m.

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.

1. The developer should be made aware that there is an existing stormwater management easement located along the northern limits of the property as shown on the submitted plans. Municipal Easements are required to protect and ensure access to the Municipal infrastructure located on the subject property.

The developer should be made aware that no development will be allowed on the easement, with the exception of minor landscaping (restricted to lower type vegetation, no large trees) in order to maintain access to an easement in perpetuity.

2. Please ensure that 1 metre offset from the side yard lot lines remain free and clear of all encumbrances for swales and drainage purposes.
3. That the applicant submits an overall lot grading and drainage plan to demonstrate that the drainage does not negatively impact nor rely on neighbouring properties, to the satisfaction of the Director of Public Works or his designate.
4. It is the responsibility of the owner/developer to pave the driveway apron within one year of occupation being granted.

5. At future development application stages, the Town of Pelham will require a stormwater management brief outlining where the runoff will be directed and calculations showing that the existing infiltration trenches can accommodate the additional runoff. Staff require that the additional runoff will not negatively effect the embankments at the rear of the property.

To: Sarah Leach

Cc: Kenny Ng,

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

Date: December 20th, 2021

Subject: Building Comments on Applications to the Committee of Adjustment for
Consents/Minor Variances – January 11th, 2022 Hearing

Comment for Re: File A30/2021P 350 Canboro Rd.

The building department offers the following comment,

- Building permit required for the proposed, compliance with the Ontario Building Code will be a requirement.

Comment for Re: File A1/2022P 42 Philmori

The building department offers the following comment,

- Building permit required for the proposed covered rear deck.

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

January 3, 2022

File No.: D.17.06.MV-21-0098

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
Minor Variance Application
Town File No.: A1/2022P
Applicant: [REDACTED]
Address: 42 Philmori Boulevard
Town of Pelham**

Regional Planning and Development Services staff have reviewed the information circulated for the above-noted minor variance application, which has been proposed to facilitate the construction of single detached dwelling on the subject property. The applicant is seeking a variance to permit a decrease in the minimum interior side yard setback and minimum rear yard setback in order to permit the construction of the proposed dwelling.

The subject property was previously subject to Official Plan Amendment, Zoning By-law Amendment (Town File No.: AM-05/12), and Draft Plan of Subdivision (Village of Chestnut Ridge Subdivision, approved by the Ontario Municipal Board in September 2004 and modified by Town File No.: 26T-19-02005) applications. The current site-specific zoning which applies to the subject property was implemented as part of these previous applications. This includes the current rear yard setback of 15 metres, which Regional staff understand was intended to address potential impacts to adjacent natural heritage features.

Pre-consultation comments for the proposal were provided via email on April 29, 2021. The following Provincial and Regional comments are provided to assist the Committee in their consideration of the application.

Provincial and Regional Policies

The subject property is located within a Settlement Area under the Provincial Policy Statement (PPS), designated Delineated Built-Up Area under A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan) and designated Urban Area (Built-Up Area) in the Regional Official Plan (ROP).

The PPS and Growth Plan direct growth to Settlement Areas and the Delineated Built-Up Area to efficiently use existing servicing, infrastructure, and public service facilities. The ROP permits a full range of residential, commercial and industrial uses within the Urban Area, subject to the availability of adequate municipal services and infrastructure, and other policies relative to urban design, compatibility and environmental conservation.

Archaeological Potential

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 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 the Ministry of Heritage, Sport, Tourism and Culture Industries' (MHSTCI) Criteria for Evaluating Archaeological Potential, the subject lands exhibit high potential for the discovery of archaeological resources due to their proximity (within 300 metres) to a registered archeological site, as well as several past and present watercourses. Regional staff have confirmed that archaeological resources were addressed through the previous subdivision application for the subject property. Accordingly, no further study is required with this application.

Core Natural Heritage System

The subject property is impacted by the Region's Core Natural Heritage System (CNHS), consisting of Provincially Significant Earth Science Area of Natural and Scientific Interest (ANSI) and Significant Woodland. The proposed reduction in the minimum rear yard setback would permit development in closer proximity to these features.

Based on the nature of the structure proposed within the reduced setback (i.e. a covered deck), and the limited proposed encroachment, Regional Environmental Planning staff requested the completion of an Edge Management Plan in lieu of an Environmental Impact Study (EIS) at the pre-consultation stage, which identifies additional native vegetative plantings adjacent to the rear property line. Staff have reviewed the Edge Management Planting Plan, prepared by Beacon Environmental (dated August 18, 2021) and confirm that the Plan adequately addresses Regional

January 3, 2022

concerns. It is staff's understanding that the Town may require the submitted Edge Management Planting Plan to be modified to address any potential impacts to the existing stormwater management infrastructure in this location. Regional staff will require circulation of any revised plans to ensure impacts to the Region's CNHS remain appropriately mitigated. Additionally, to further mitigate potential impacts to the Region's CNHS, staff recommend that the Committee also require the installation of permanent fencing without any gates along the extent of the rear lot line, unless already installed at that location.

Conclusion

In conclusion, Regional staff have no objection to this minor variance application from a Provincial or Regional perspective, subject to the satisfaction of any local concerns, and the following conditions:

1. That the Edge Management Planting Plan, prepared by Beacon Environmental (dated August 18, 2021) be implemented on the subject property. If the Town requires this plan to be revised, it shall be submitted for the review and approval of Niagara Region prior to implementation; and,
2. That the owner install permanent fencing along the rear property line, without a gate, to prohibit access from the subject property to the abutting Regional Core Natural Heritage System features.

Provided these conditions are addressed, the proposal is consistent with the Provincial Policy Statement and conforms to Provincial Plans and the Regional Official Plan from a Provincial and Regional perspective.

Please send notice of the Committee's decision on this application.

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.

Kind regards,



Amy Shanks
Development Planner

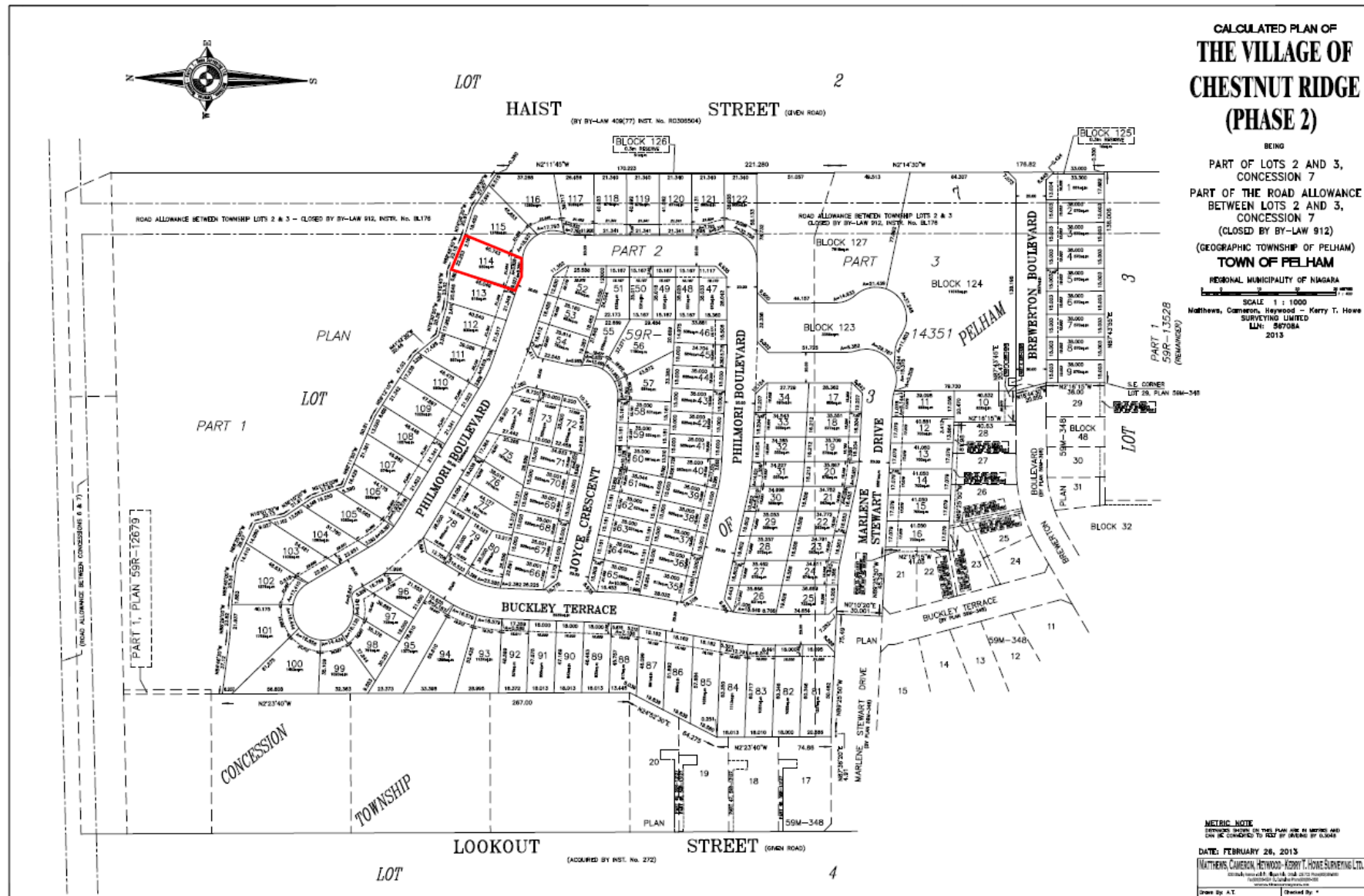
cc: Aimee Alderman, MCIP, RPP, Senior Development Planner, Niagara Region
Adam Boudens, Senior Environmental Planner, Niagara Region
Kenny Ng, Planner, Town of Pelham

42 Philmori Boulevard: Lot 114

Lookout Subdivision

Minor Variance Application:

- Interior side yard setbacks
- Rear yard setback



What are the Minor Variances for?

- To permit interior side yard setbacks of 1.9m to accommodate the building footprint on a pie shaped lot.
- To permit a rear yard setback of 11.8m to allow for a covered deck.

lot #114

3m Easement

46'-0" 14.54 m (13.5m REQUIRED)

55'-0" 17.23 m (15m REQUIRED)

44'-4" 13.50 m (13.5m REQUIRED)

32'-11" 11.87 m (10.5m REQUIRED) (VARIANCE REQUIRED)

15m rear yard setback

COVERED DECK

HOUSE

COV. PORCH

GARAGE

COV. AREA

1.95m interior side yard setback (3m REQUIRED) (VARIANCE REQUIRED)

8'-5" 2.59 m 1.95 m

1.95m interior side yard setback (3m REQUIRED) (VARIANCE REQUIRED)

8'-5" 2.59 m 1.95 m

6m front yard setback (garage)

4m front yard setback (house)

5'-7.10" 1.73 m (4m REQUIRED)

(garage level) 2'-11" 0.64 m

21

Proposed Building Footprint



Conceptual Renderings:

Note: Material and color selections have not yet been determined. The elevations shown are conceptual.



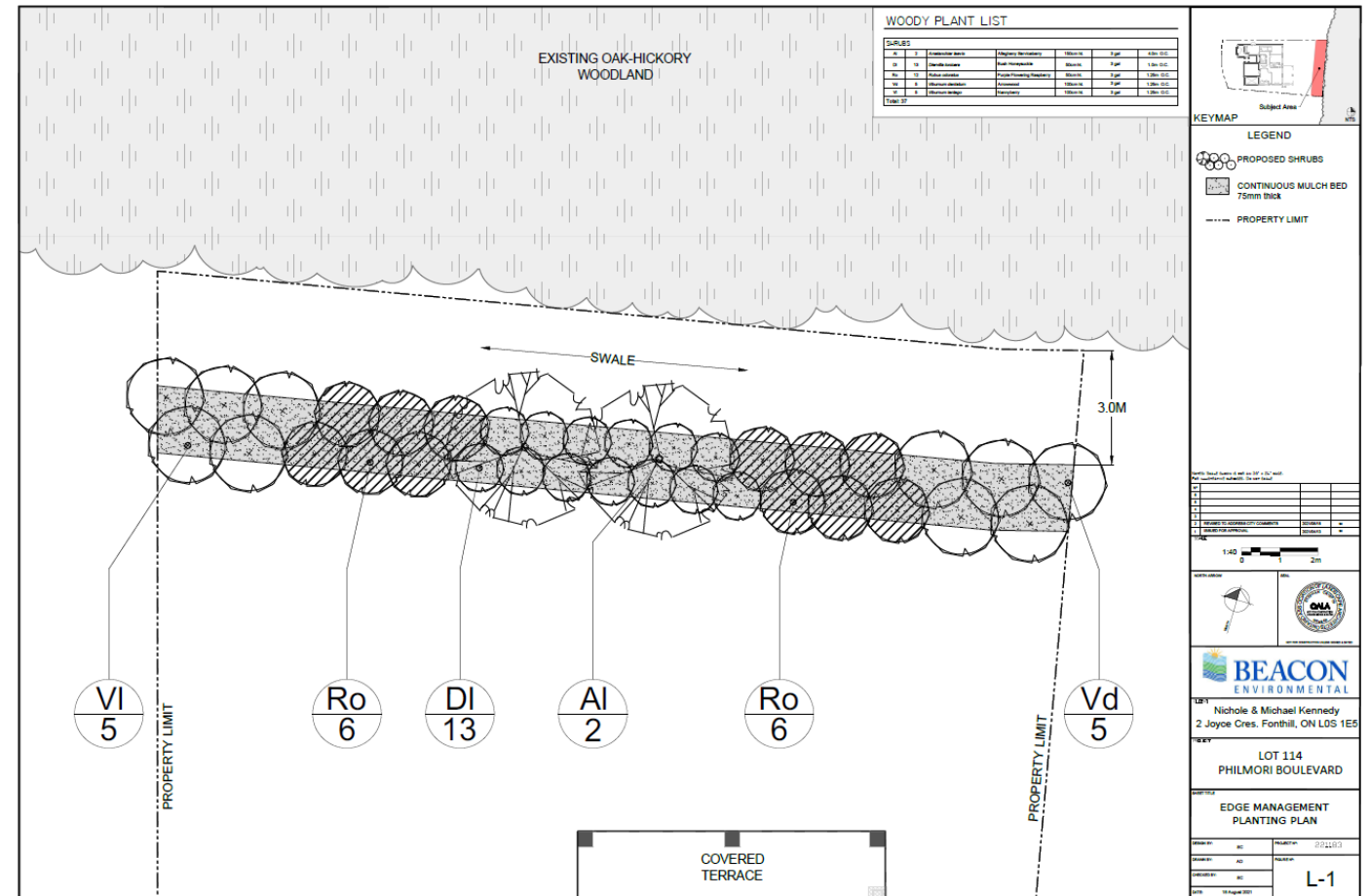
Conceptual Renderings:



Note: Material and color selections have not yet been determined. The elevations shown are conceptual.

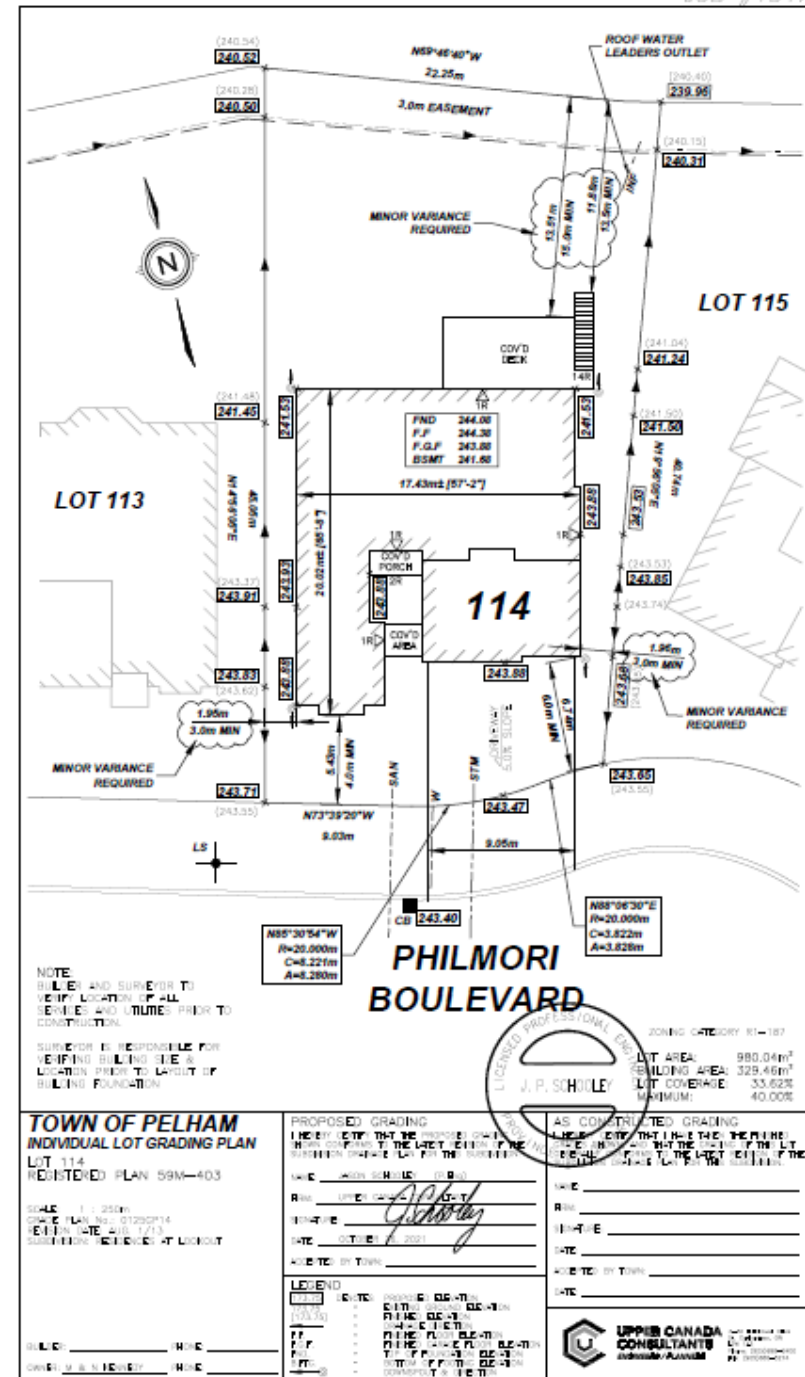
Minor Variance for Rear Yard Setback

The Edge Management Plan prepared by Beacon Environmental proposes additional plantings to enhance the buffer and provide additional protection to the environmental feature, while posing no disruption to existing the swale. This enhancement of the feature further justifies the slight reduction in the rear yard setback.



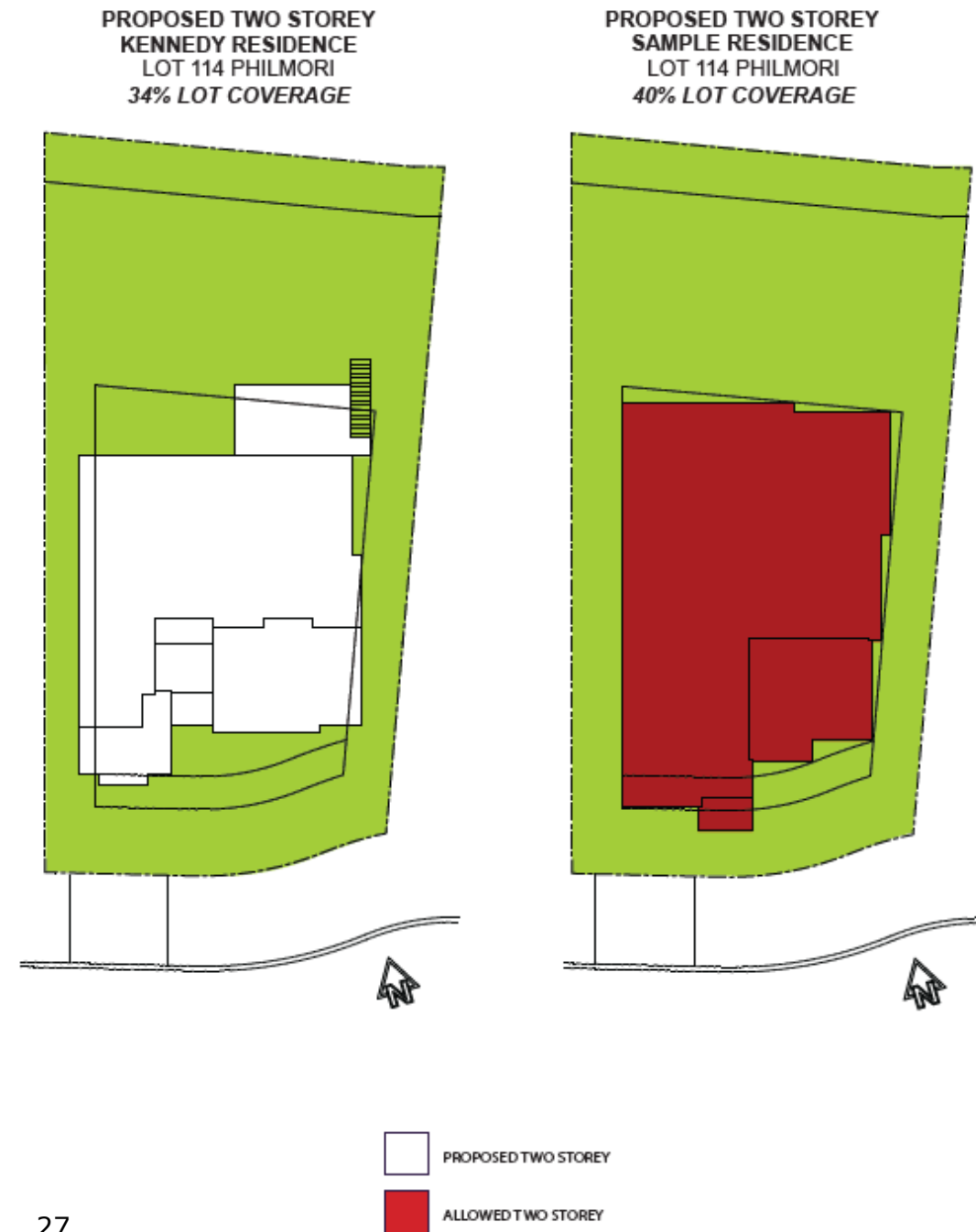
Stormwater Management Assessment

Jason Schooley, P. Eng. at Upper Canada Consultants prepared a Stormwater Management Assessment in support of these minor variances. The assessment contemplated the proposed building with the existing stormwater management measures and concluded that the infiltration gallery has adequate capacity and will not impact the stormwater systems in the development area.



MASSING (1)

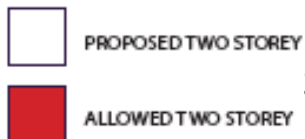
Proposed Building
Footprint (white)
vs.
Current Permitted
Footprint (red)



MASSING (2)

- Variances achieve desired building footprint;
- But 6% less than maximum coverage;
- Red areas on plans show allowed coverage;
- White areas show proposed coverage;
- Adjacent dwellings appear to extend further into rear yards;

Result: desired variances create less massing than which is allowed by the zoning requirements; and in comparison to nearby homes.



MASSING (3)

Proposed 2-storey Dwelling – Kennedy Residence



Permitted 2-storey Dwelling – Sample Residence



Conclusion

The proposed house with variances create an appropriate use of the lot:

- Complies with Official Plan policies (residential land use & respects adjacent environmental area);
 - Enhances environmental area with embellished landscape provisions;
- Maintains the spirit & intent of Zoning By-law (reduced coverage, less massing, desirable site plan and yard space);
- Variances are minor in scale;
- Variances are desirable for appropriate use of the lot for residential purposes and environmental enhancement.

Questions?

Sarah Leach

Subject: RE: File #A1/2022P, 42 Philmori Blvd

From: Gary Caron [REDACTED]
Sent: Friday, December 17, 2021 12:44 PM
To: Holly Willford <HWillford@pelham.ca>
Subject: File #A1/2022P, 42 Philmori Blvd

Good Afternoon,

I received in the mail the application for minor variance for 42 Philmori Blvd.

My home is [REDACTED] Philmori Blvd and therefore have 1 house between mine and the newly proposed home.

I would like to see this house conform to the regulations stated in this development in terms of space between houses so that the green space in the backyards can be viewed for these tree lined homes. I think that an oversized build would spoil the look of the street and would stand out in an unfavorable way, no matter what the design is.

For the backyard request it seems more reasonable and would support the request for the stairs to cross the slope line.

Thanks very much for the opportunity to comment on this project,

Gary



Gary Caron



Sarah Leach

Subject: RE: Re FileA1/2022/P

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

From: Fernando Visbal [REDACTED]
Sent: Friday, December 17, 2021 10:50 AM
To: Holly Willford <HWillford@pelham.ca>
Cc: [REDACTED]
Subject: Re FileA1/2022/P

COMMITTEE OF ADJUSTMENT
Town of Pelham
20 Pelham Town Square, P.O. Box 400, Fonthill ON L0S 1E0

Attention m: Secretary Treasurer
Re: File A1/2022/P

Dear Members of the Committee

We, Fernando Visbal and Maria Gonzalez , owners and residents of the property located in [REDACTED] Philmori Blvd, Fonthill, Town of Pelham, strongly oppose to the proposed "minor variant" (File Number A1/2022P) to allow the property that will be build next to us on 42 Philmori Blvd, Pelham, to have a Minimum Interior Side Yard of 1.9m on the East and West sides, instead of 3 meters, as it is required. By-Law 3325(2012). Section R1-187(e).

This will have several impacts on our property and on the neighborhood. On the neighborhood, It will break the beautiful symmetry of the houses in the street, to which each owner had to abide to when building their properties and it will partially block the view to the tree line of the escarpment, and our house in particular, will look way smaller without the spacious side yards that all the houses have plus being next to the widest house of the street.

We have recently purchased our house and we paid a significant amount of money, understanding that big part of that value, was the exquisite symmetry of the houses and the generous wide side yards that the Town of Pelham required for the properties in this location. So, It has been a big surprise for us and a source of anxiety, to learn that the Town of Pelham is considering to apply new rules for one property that will affect so many others. If the town of Pelham allows this to happen, the value of our recently purchased property could potentially be negatively impacted. I am sure that on the long run our future neighbor will also benefit from conserving the balanced harmony of the houses and side yards on this part of Philmori Blvd.

We hope that the members of the Committee of Adjustment will consider this comments when deciding upon this issue.

Sincerely,

Fernando Visbal
Maria Cecilia Gonzalez
[REDACTED] Philmori Boulevard

Sarah Leach

Subject: RE: File A1/2022P : Lot 114 On Plan 59M-403(Objection on 1.95M side yard setback)

From: Iqbal Khan [REDACTED]
Sent: Tuesday, December 14, 2021 5:40 PM
To: Iqbal Khan [REDACTED]
Subject: Lot 114 On Plan 59M-403(Objection on 1.95M side yard setback)

To ,
Secretary Treasure Of Committee Of adjustment,

I am resident owner of [REDACTED] Philmori Blvd (Lot [REDACTED]) , adjacent to proposed future 2 story residence applying minor variance for 1.95 M (instead of 3 M)interior side yard setback on either side of house.

I would like to refer this council ,to extensive negotiations and work, which extended over several years during finalizing this subdivision , particularly prime tree line lots.

I attended many of these meetings as development came to reality .

Particular emphasis was on size of lot(usually 70f front) and permissible footprints of houses (usually 50 f front) ,to preserve escarpment habitat and crowding of houses with sufficient side and backyard setbacks.

Leaving 3M side yard setback was accepted after debates in great length , to keep escarpment view visible from road as much as possible .

Our house (Lot [REDACTED]) first ,and other houses built later, on these tree line lots followed strictly imposed setback rules.

By permitting applied side yard setback of 1.95M(instead of 3 m) on each side for Lot 114 will change symmetry and value of adjacent and other house in line and also obstruct escarpment view by reducing space between houses.

As far as rear extension of deck stairs is concerned , it is acceptable as long as deck itself leaves required backyard setback of 13.50 m backyard (otherwise it will compromise backyard privacy of both houses.

I will request above facts to be considered ,while making decision regarding this application.

Kind regards,
Iqbal Khan
[REDACTED] Philmori Blvd
(Lot [REDACTED])

File Number: A1/2020P

Subject Lands: 42 Philmori Boulevard, Pelham

Legal Description: Lot 114 on Plan 59M-403

We received the notice of a public hearing in regard to an application for a variance allowance on the proposed dwelling on Lot 114. First, as we reside on the south side of Philmori Boulevard, we are concerned that our view of the escarpment will be obstructed if these variances are permitted. When we originally purchased our lot, we were told by the Mountainview sales agent that one of the factors for the hefty lot premium included having a partial view of the escarpment as the homes on the north side of Philmori have more space between them. We feel that it is unjust to be charged a premium for something and not benefit from it.

Second, when we built our home with Mountainview we asked for variances and exceptions to our side elevation including the bump out, faux windows, style of windows (had to have some grill), where we can start the fence at the side of the house and the style of fence, however we were always told that Mountainview does not allow by-law variances. We always had to design and go with what was acceptable within the guidelines given. We did not have luxury to customize that they we wanted. We think it's unfair that for these variances to be allowed as our modifications were never even considered.

Last, when we initially began our search to build our dream house, one of the reasons we liked the Lookout area was the size of the lots and the spacing between the houses. It had an 'exclusive' feel to it as compared to other municipalities and subdivisions within the Niagara Region. Therefore, having homes closer together has a negative effect on the overall look of the neighbourhood and we would not like to compromise that.

Sarah Leach

To: Holly Willford; Kenny Ng
Subject: RE: Subject Lands 42 Philmori Blvd , Pelham

From: [REDACTED]
Sent: Wednesday, January 5, 2022 9:32 AM
To: Holly Willford <HWillford@pelham.ca>
Subject: Fwd: Subject Lands 42 Philmori Blvd , Pelham

RE: File No. A1/2022P
Legal Description Lot 114 on Plan 59M-403
Subject Lands - 42 Philmori Blvd, Pelham

This email is in concern the above mentioned property that is requesting variances for their new build. As a resident in this subdivision I am quite concerned that the request for these variances are a bit overstepping the requirements of the Pelham By-Law..

I am concerned in regards to make sure that the home will comply with the look the whole subdivision as far as the distance between the homes especially with the view of the escarpment as when we purchased our home that was one of the biggest selling features..

As mentioned being a resident in this subdivision we want to make sure that this property will comply with keeping this built same symmetry as the rest of the homes had comply with the town by-law..

I trust that these comments will be taken into consideration in the decision for this property.

Regards,

Philmori Blvd Neighbour