

Committee of Adjustment**Minutes**

Meeting #: CofA 12/2021
Date: Tuesday, December 7, 2021
Time: 4:00 pm
Location: Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

Members Present Donald Cook
John Klassen
Brenda Stan

Members Absent Sandra Marsh
Bernie Law

Staff Present Holly Willford
Kenny Ng
Jacquie Miller
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

Ms. Holly Willford, Secretary-Treasurer, recited the land recognition statement.

Noting that a quorum was present, Chair Cook called the meeting to order at approximately 4:04 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. Willford stated there have been no requests for withdrawal or adjournment.

The Committee unanimously agreed to hear application A38/2021P first.

Moved By Sandra Marsh

Seconded By John Klassen

THAT the agenda be amended to hear minor variance file A38/2021P first.

Carried

6.1 A38/2021P - 58 Bergenstein Crescent

Purpose of Application

Application is made for relief, to construct a rear deck, from 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.

Representation

The Agent, Mr. Kevin Beamer and Applicants, Ralph and Barbara Connelly were electronically present.

Correspondence

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building

Applicants Comments

Mr. Kevin Beamer, Agent, indicated that the proposal is a reasonably sized deck.

Public Comments

Ms. Holly Willford, Secretary-Treasurer indicated she checked the clerks@pelham.ca email address at 4:18 pm and confirmed no e-mails have been received with regard to the subject application. Ms. Willford indicated the public comment portion of the application could be closed. The Committee agreed to close the public portion of the meeting.

Member Comments

The Members indicated they had no comments.

Moved By John Klassen

Seconded By Brenda Stan

THAT the public portion of the meeting be closed.

Carried

Moved By John Klassen

Seconded By Brenda Stan

THAT application for relief of Section R2-254 (f) “Minimum Rear Yard” – to permit a minimum rear yard of 4.91m whereas the by-law requires 7.5m, is hereby: GRANTED;

The above decision is based on the following reasons:

- 1. The variance is minor in nature as the proposed addition is reasonably sized, would not substantially remove outdoor amenity space and is unlikely to have any shadowing projection onto the adjacent properties.**
- 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 provide for a deck that will improve the outdoor amenity space for the residents while still maintaining adequate amenity space on the ground.**
- 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 decision is subject to the following conditions:

- 1. That the Applicant apply for and receive a building permit for the proposed uncovered deck, to the Satisfaction of the Chief Building Official.**

Carried

Applications for Consent

5.1 B31/2021P - 198 Canboro Road (Part 2)

Purpose of the Application

Application B31/2021P is made for consent to partial discharge of mortgage and consent to convey 833 square metres of land (Parts 2 and 6 on sketch), for future construction of a single detached dwelling. Parts 1 and 5 is to be retained for the future construction of a single detached dwelling. Application B32/2021P is made for consent to partial discharge of mortgage and consent to convey 833 square metres of land (Part 3 and 7 on sketch), for future construction of a single detached dwelling. Parts 1 and 5 is to be retained for the future construction of a single detached dwelling. Application B33/2021P for consent to partial discharge of mortgage and consent to convey 1,562 square metres of land (Part 4), to be added to the abutting property to the west, being 204 Canboro Road (Part 8 on Sketch). Part 1 is to be retained for the future construction of a single detached dwelling.

Representation

The Agent, Craig Rohe of Upper Canada Consultants was electronically present.

Correspondence Received

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Hydro One
5. Niagara Region
6. Linda Stokes and Larry Moote

Pre-Registered Members of the Public

1. Linda Stokes and Larry Moote
2. Daniel Peat

Applicants Comments

Mr. Craig Rohe, Agent, stated support of the staff report, recommendation and proposed conditions.

Public Comments

Ms. Linda Stokes and Mr. Larry Moote jointly entered the electronic meeting. Ms. Stokes asked what Part 4 will be used for. Ms. Stokes further inquired if servicing will need to be added for the three lots. Additionally, Ms. Stokes asked for the capacity and location of the sewer easements for the lots. Mr. Moote expressed concern that the ravine located to the south side of the subject land would be negatively impacted by residential growth. Mr. Moote indicated that the ravine is both visually appealing as well as provides a sound barrier for traffic on Canboro Road.

Mr. Craig Rohe, Agent, responded that Part 4 is a lot addition to provide additional yard space to 204 Canboro Road. Mr. Rohe stated that servicing will be added from Canboro Road. Mr. Rohe further stated that water service will be extended off the hydrant in front of 190 Canboro Road. Mr. Rohe stated that the easements located on Part 8 are existing and related to the development at 190 Canboro Road. He stated that catch basins are not required on these properties as they all rely on overland flow. With respect to the ravine, Mr. Rohe indicated that the development will have no negative environmental impact. Mr. Moote was satisfied with Mr. Rohe's response.

Mr. Daniel Peat stated that he is the owner of the property across from the subject land. Mr. Peat stated that the addition of two driveways on the crest of the hill would interfere with the deceleration lane on Canboro Road for eastbound traffic entering 190 Canboro Road. Mr. Peat further stated that the proposed driveways would be on an angle providing for poor site lines. Mr. Peat suggested the entrance be relocated through 190 Canboro Road and Part 4 which would provide safer traffic access. Mr. Peat further indicated dissatisfaction with the planning process, noting that that conditions pertaining to driveway access and culvert permits should be considered at the beginning of the process. Mr. Peat stated his concern

with respect to drainage, noting that he hopes the conditions will adequately safeguard the land from drainage issues.

Ms. Angela MacRae and Mr. Brian Young jointly entered the electronic meeting. Mr. Young expressed concern with respect to water runoff. Mr. Young suggested the requirement of a drainage plan to address the additional water, indicating that the easement in the valley is in poor condition. Mr. Young expressed concern with the safety of the lots. He stated that the angle of driveways will create a dangerous situation, referencing the busy traffic and high speed along Canboro Road. A Committee Member agreed with Mr. Young's comments that the easement is in poor condition.

Ms. Holly Willford, Secretary-Treasurer indicated she checked the clerks@pelham.ca email address and stated that two emails had been received with regard to the subject application. Ms. Willford stated that Mr. Brian Young submitted comments by email, however, he was able to join the meeting and commented live. Ms. Willford read into the record a further comment of Mr. Peat, stating that he would like the report to address a financial contribution in lieu of parkland.

Ms. Willford indicated that no further emails had been received at 4:57 pm and the public comment portion of the application could be closed. The Committee agreed to close the public portion of the meeting to deliberate.

Member Comments

A Committee Member asked Mr. Rohe to confirm that the Applicant is not responsible for existing drainage issues as it resulted from a previous application. Mr. Rohe stated that he understands the proposed condition requiring the submission of elevation drawings and a storm water management brief. Mr. Rohe confirmed that matters associated with the existing easement are related to a separate, approved file. In response, the Member reaffirmed to the public participants that drainage is being reviewed by qualified people.

A Committee Member asked what is being proposed with respect to servicing. In response, Mr. Rohe indicated that the lots will require a connection to the local sanitary sewer and the water line will require a connection off of the fire hydrant. The Member indicated that taking a water line off of a hydrant to service three homes is unacceptable from a water quality standpoint. The Member expressed concern with the sanitary sewer. Mr. Derek Young, Manager of Engineering, stated that there is an

existing force main that runs up Canboro Road with an existing service connection to the current property. Mr. Young stated that two additional force mains are required. Mr. Young confirmed that 204 Canboro has its own service connection.

The Committee Member suggested adding a condition that the three homes be serviced from separate connections to the regional water main. The Member further expressed concern related to the driveway connection. The Member stated that a majority of frontages on Canboro Road appear to be greater than 17 metres. The Member disagreed with the defined neighborhood within the Planning Justification Report and stated that creating three lots with a frontage of less than 18 metres is inconsistent with the surrounding neighborhood adjacent to Canboro Road.

The Committee Member stated that he is unable to support the application due to concern surrounding the sanitary sewer, neighborhood compatibility and strip development. Mr. Rohe responded that with regard to the water connection, the direction was provided by the Niagara Region and Town Staff. He further responded that from a planning perspective, Oakridge Boulevard and Concord Street were considered as a comparable neighborhood as they are zoned Residential 1. Mr. Rohe stated that strip development is appropriate as the subject land is within the urban area.

Moved By John Klassen

Seconded By Sandra Marsh

THAT the public portion of the meeting be closed.

Carried

Moved By Brenda Stan

Seconded By John Klassen

Application B31/2021P made for consent to partial discharge of mortgage and consent to convey 833 square metres of land (Parts 2 and 6 on sketch), for future construction of a single detached dwelling. Parts 1 and 5 is to be retained for the future construction of a single detached dwelling; is hereby: GRANTED;

Application B32/2021P made for consent to partial discharge of mortgage and consent to convey 833 square metres of land (Part 3 and 7 on sketch), for future construction of a single detached dwelling. Parts 1 and 5 is to be retained for the future construction of a single detached dwelling, is hereby: GRANTED;

Application B33/2021P made for consent to partial discharge of mortgage and consent to convey 1,562 square metres of land (Part 4), to be added to the abutting property to the west, being 204 Canboro Road (Part 8 on Sketch). Part 1 is to be retained for the future construction of a single detached dwelling; is hereby: GRANTED.

The above decisions with respect to file numbers B31/2021P and B32/2021P are subject to the following conditions:

To the Satisfaction of the Director of Public Works

- 1. 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. Submit a comprehensive overall lot grading and drainage plan for all parcels to demonstrate that the drainage does not negatively impact nor rely on neighbouring properties.**
- 3. Confirm that no existing utilities cross the proposed new property lines. Should any services cross this new property lines, the applicant will be responsible for costs associated with their relocation and/or removal.**
- 4. Submit a Servicing Brief. Included in the submission, the Applicant is to submit a drawing that indicates the location of the individual water service and sanitary lateral for all lots to confirm no existing water or sanitary services branch from or through the proposed lots to other lands, and from or through the remaining parcel to other lands. If installation of new services is required, locate cards shall be submitted upon completion.**
- 5. Submit a Stormwater Management Brief, which details stormwater management strategies and provides all necessary**

calculations to demonstrate post development runoff rates are within allowance limits.

- 6. Gratuitously grant a 7.00 metre road widening across the frontage of the subject property to the Town of Pelham. The requested widening is to be conveyed free and clear of any mortgages, liens or other encumbrances, and is to be described by Reference Plan. The widening portion of the plan will be the responsibility of the owner to order. The cost of providing this plan will be the full responsibility of the Applicant. The Applicant will arrange for the land surveyor for the property to submit the preliminary undeposited survey plan along with all related documents to Town of Pelham Public Works Staff for approval. Public Works Staff will advise the land surveyor of any required revisions to the plan. Once the plan is deposited and the transfer registered, the Town of Pelham will clear the applicable condition. All costs associated with the transfer are at the sole expense of the applicant.**

To the Satisfaction of the Director of Community Planning & Development

- 1. Provide a copy of the acknowledgement letter from the Ministry of Heritage, Sport, Tourism & Culture Industries for the submitted Stage 1 and 2 Archaeological Assessment for 198 Canboro Road advising that the site has been cleared of archaeological resources to the satisfaction of Director of Community Planning and Development.**
- 2. That the applicant obtain approval for any deficient Zoning By-law regulations.**
- 3. Provide front dwelling Elevation Plan(s) and perspective view drawing(s) that positively contribute to the surrounding neighbourhood and demonstrate compatibility and harmonious transition with the existing streetscape with respect to height, massing and design continuity, through the use of a front porch, windows symmetrically proportionate to the building's mass, a congruent use of exterior cladding, etc., Said Elevation Plans shall be substantially unaltered from those at the time of building permit.**

4. **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 Niagara Region

1. **Submit servicing drawings for review and approval prior to the site being serviced.**
2. **Receive acceptance from the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) for the archaeological assessment reports entitled Stage 1 and 2 Archeological Assessment, prepared by Detritus Consulting Ltd., dated November 4, 2021. If the Ministry requires further archaeological work to be completed prior to acknowledging these reports, these reports must also be submitted to and acknowledged by the Ministry, to the satisfaction of Niagara Region, prior to clearance of this condition. No demolition, grading or other soil disturbances shall take place on the subject property prior to the issuance of a letter from MHSTCI through Niagara Region, confirming that all archaeological resource concerns have met licensing and resource conservation requirements.**

To the Satisfaction of the Secretary-Treasurer

1. **That application for consent, file B31/2021P receive final certification of the Secretary-Treasurer concurrently with applications B32/2021P and B33/2021P.**
2. **Provide the Secretary-Treasurer sufficient evidence indicating that the conveyance of road widening be deeded to the Town of Pelham. This transfer shall be completed to the satisfaction of the Director of Public Works, said lands shall be conveyed free and clear of any mortgages, liens or encumbrances. All costs associated with this conveyance are the responsibility of the applicant.**
3. **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.

- 4. 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.**

The above decision with respect to file number B33/2021P is subject to the following condition:

To the Satisfaction of the Director of Public Works

- 1. Submit a comprehensive overall lot grading and drainage plan for all parcels to demonstrate that the drainage does not negatively impact nor rely on neighbouring properties.**
- 2. Confirm that no existing utilities cross the proposed new property lines. Should any services cross this new property lines, the applicant will be responsible for costs associated with their relocation and/or removal.**
- 3. Gratuitously grant a 7.00 metre road widening across the frontage of the subject property to the Town of Pelham. The requested widening is to be conveyed free and clear of any mortgages, liens or other encumbrances, and is to be described by Reference Plan. The widening portion of the plan will be the responsibility of the owner to order. The cost of providing this plan will be the full responsibility of the Applicant. The Applicant will arrange for the land surveyor for the property to submit the preliminary undeposited survey plan along with all related documents to Town of Pelham Public Works Staff for approval. Public Works Staff will advise the land surveyor of any required revisions to the plan. Once the plan is deposited and the transfer registered, the Town of Pelham will clear the applicable condition.**

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 West (Part 8 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 application for consent, file B33/2021P receive final certification of the Secretary-Treasurer concurrently with applications B31/2021P and B32/2021P.
3. 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.
4. 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

5.2 B32/2021P - 198 Canboro Road (Part 3)

Application B32/2021P was heard concurrently with applications B31/2021P and B33/2021P. See application B31/2021P for minutes and decision.

5.3 B33/2021P - 198 Canboro Road (Part 4)

Application B33/2021P was heard concurrently with applications B31/2021P and B32/2021P. See application B31/2021P for minutes and decision.

6. Applications for Minor Variance

6.2 A39/2021P - 198 Canboro Road (Part 1)

Purpose of the Application

Application A39/2021P for relief of Section 13.2(b) “Minimum Lot Frontage” – to permit a minimum lot frontage of 17.7m whereas the by-law requires 19m. Application A40/2021P for relief of Section 13.2(b) “Minimum Lot Frontage” – to permit a minimum lot frontage of 17.7m whereas the by-law requires 19m. Application A41/2021P for relief of Section 13.2(b) “Minimum Lot Frontage” – to permit a minimum lot frontage of 17.7m whereas the by-law requires 19m.

Application A39/2021P for relief of Section 13.2(b) “Minimum Lot Frontage” – to permit a minimum lot frontage of 17.7m whereas the by-law requires 19m. Application A40/2021P for relief of Section 13.2(b) “Minimum Lot Frontage” – to permit a minimum lot frontage of 17.7m whereas the by-law requires 19m.

Application A41/2021P for relief of Section 13.2(b) “Minimum Lot Frontage” – to permit a minimum lot frontage of 17.7m whereas the by-law requires 19m.

Representation

The Agent, Craig Rohe of Upper Canada Consultants was electronically present.

Correspondence Received

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building

4. Linda Stokes and Larry Moote

Pre-Registered Members of the Public

1. Linda Stokes and Larry Moote
2. Daniel Peat

Applicants Comments

Mr. Craig Rohe, Agent, stated support of the staff report, recommendation and proposed conditions.

Public Comments

Ms. Linda Stokes and Mr. Larry Moote did not provide additional comments. Mr. Daniel Peat did not provide additional comments.

Ms. Angela MacRae and Mr. Brian Young expressed concern with increased water run off due to an increase in hard surfaces on a compressed lot. Mr. Young stated that the variances negate the purpose of the Zoning By-law.

Ms. Holly Willford, Secretary-Treasurer indicated she checked the clerks@pelham.ca email address at 5:27 pm and confirmed no e-mails had been received with regard to the subject application. Ms. Willford indicated the public comment portion of the application could be closed. The Committee agreed to close the public portion of the meeting.

Member Comments

A Member of the Committee re-established confidence in the Town to address related drainage and engineering matters at the time of condition approval. Ms. Willford assured the Committee that the certificate of consents will not be issued until approval is given from each applicable department.

Moved By John Klassen

Seconded By Sandra Marsh

THAT the public portion of the meeting be closed.

Carried

Moved By John Klassen
Seconded By Brenda Stan

Application A39/2021P for relief of Section 13.2(b) “Minimum Lot Frontage” – to permit a minimum lot frontage of 17.7m whereas the by-law requires 19m, is hereby: GRANTED;

Application A40/2021P for relief of Section 13.2(b) “Minimum Lot Frontage” – to permit a minimum lot frontage of 17.7m whereas the by-law requires 19m, is hereby: GRANTED;

Application A41/2021P for relief of Section 13.2(b) “Minimum Lot Frontage” – to permit a minimum lot frontage of 17.7m whereas the by-law requires 19m, is hereby: GRANTED;

The above decisions are based on the following reasons:

- 1. The variance is minor in nature as the lot can still comfortably accommodate the proposed dwelling, outdoor amenity area, parking, drainage and provide adequate separation from adjacent lots and land uses.**
- 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 the creation of an additional residential building lot on a large, underutilized residential lot within the delineated built boundary of the Fonthill urban settlement area.**
- 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 decisions are subject to the following conditions:

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

1. **That the approval of the minor variance is subject to Consent Files B31/2021P, B32/2021P and B33/2021P obtaining final approval.**

Carried

6.3 A40/2021P - 198 Canboro Road (Part 2)

Application A40/2021P was heard concurrently with applications A39/2021P and A41/2021P. See application A39/2021P for minutes and decision.

6.4 A41/2021P - 198 Canboro Road (Part 3)

Application A41/2021P was heard concurrently with applications A39/2021P and A40/2021P. See application A39/2021P for minutes and decision.

7. Minutes for Approval

Moved By John Klassen

Seconded By Donald Cook

THAT the Committee of Adjustment minutes dated November 2, 2021 be approved.

Carried

8. Adjournment

Moved By Brenda Stan

Seconded By John Klassen

BE IT RESOLVED THAT this Meeting of the Committee of Adjustment Hearing be adjourned until the next regular meeting scheduled for January 11, 2022 at 4:00 pm.

Don Cook, Chair

Secretary-Treasurer, Holly Willford