

## Committee of Adjustment AGENDA

CofA 03/2022

March 1, 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](http://www.youtube.com/townofpelham/live) and subsequent publication to the Town's website at [www.pelham.ca](http://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. A3/2022P - 16 Swan Avenue** 1

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

**6. Applications for Consent**

**6.1. B5/2022P - 1397 Station Street** 8

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

**7. Minutes for Approval** 17

January 11, 2022

February 1, 2022

**8. Adjournment**

February 23, 2022

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

**Re: Minor Variance Application A3/2022P**  
**16 Swan Avenue, Pelham**  
Lot 4 on Plan 59M-476  
**Roll No. 2732 030 020 07109**

---

The subject land is located on the west side of Swan Avenue, lying south of Acacia Road, legally described above, and known locally as 16 Swan Avenue in the Town of Pelham.

The subject land is zoned a site-specific Residential 2-266 (R2-266) in accordance with Pelham Zoning By-law 1136(1987), as amended. The minor variance application requests relief from:

- i. **Section 14.2 (c) "Maximum Lot Coverage"** – to permit a maximum lot coverage of 57.6% whereas the by-law permits 50%.

The proposal seeks to construct a one-storey single detached dwelling and covered porch.

### **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 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’.

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

The subject land is zoned a site-specific Residential 2-266 “R2-266” 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:

- i. **Section 14.2 (c) “Maximum Lot Coverage”** – to permit a maximum lot coverage of 57.6% whereas the by-law permits 50%.

The Committee of Adjustment, in accordance with 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	Test Response	Explanation
1. The variance is minor in nature.	Yes. The requested variance is considered to be minor in nature.	The requested increase in lot coverage is not anticipated to have significant impacts on the massing of the dwelling and to the surrounding streetscape or drainage capability provided no side yard walkways are proposed.
2. The variance is desirable for the development or use of the land.	Yes. The requested variance is considered to be desirable for the appropriate development or use of the land.	The variance is requested to facilitate a proposed conversion of the planned building design, changing from a two-storey dwelling to a one-storey bungalow, which is more suited for the homeowner’s needs. The requested increase in lot coverage is not anticipated to create negative massing concerns, and will be largely unnoticeable from the street view.
3. The variance maintains the general intent and purpose of the Zoning By-law.	Yes. The requested variance is considered to maintain the general intent and	The property is zoned “Residential 2-266” according to By-law 1136(1987), as amended.  The variance relates to a requested increase in lot coverage of 7.6% from the

	purpose of the Zoning By-law.	permitted 50%. This slight increase in coverage results from the inclusion of a rear covered deck, as well as an increase in the interior floor space. The intent of the by-law in regulating maximum lot coverage is to ensure that the size of the dwelling is appropriate for the lot size and the adjacent neighbourhood. The increase in coverage is not anticipated to have a noticeable visual impact on the dwelling and adequate rear yard amenity space remains.
4. The variance maintains the general intent and purpose of the Official Plan.	Yes. The requested variance is considered to maintain the general intent and purpose of the Official Plan.	The subject property is designated "Secondary Plan Area" in the Official Plan and "EF – Low Density Residential" in the East Fonthill Secondary Plan.  The proposed single detached dwelling is a permitted use in the designation and the requested variance is not considered to have significant impacts within the context of the Official Plan policies.

### Agency & Public Comments

On January 19, 2022, 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 (February 15, 2022)
  - A building permit is required for the proposed dwelling.
- Public Works Department (February 16, 2022)
  - Public works has the follow conditions:
    - The driveway location is to remain in accordance with the Subdivision Servicing Plan to avoid the existing water service. Any driveway widening will require approval from the Public Works Department.
    - In order to avoid negative impact to drainage swales, no side yard walkways will be permitted.

No public comments were received 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 land is located on the west side of Swan Avenue, lying south of Acacia Road and is situated within a recently established residential neighbourhood consist of mostly low to medium density residential dwellings. A stormwater management pond and watercourse are situated to the east and north of the site.

Based on the analysis given in above sections, staff is of the opinion 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.

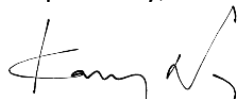
The requested variance is minor in nature, conforms to the general policies and intent of both the Official Plan and Zoning By-law and is appropriate for the development and use of the land.

Planning staff recommend that minor variance file A3/2022P **be approved** subject to the following condition:

**THAT** the applicant

- Apply for and receive a building permit for the proposed dwelling prior to construction. The driveway location is to remain unaltered from the Subdivision Servicing Plan and no side yard walkways will be permitted.

Prepared by,



Kenny Ng, B.ES  
Planner

Approved by,



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



## Memo

**To:** Kenny Ng, 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:** 16<sup>th</sup> February 2022

**File No.:** A3/2022P

**RE:** Minor Variance – 16 Swan Avenue, Pelham

Town of Pelham Public Works Staff have reviewed the above noted application and supporting documentation to address the technical concerns regarding the submitted minor variance application. The Applicant is seeking relief from:

**Section 14.2 (c) “Maximum Lot Coverage”** to permit a maximum lot coverage of 57.6% whereas the by-law allows 50%.

Public Works Staff has reviewed the submitted documentation and has the following comments:

- The driveway location is to remain in accordance with the Subdivision Servicing Plan to avoid the existing water service.
- Any driveway widening will require approval from the Public Works Department.
- In order to avoid negative impact to drainage swales, no sideyard walkways will be permitted.



To: Sarah Leach

Cc: Kenny Ng,

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

Date: February 15, 2022

Subject: Building Comments on Applications to the Committee of Adjustment for  
Consents/Minor Variances – March 1<sup>st</sup>, 2022 Hearing

Comment for Re: File A3/2022P 16 Swan Ave.

The building department offers the following comment,

- A building permit is required for the proposed dwelling.

Comment for Re: File B5/2022P 1397 Station St.

The building department offers the following comment,

- A demolition permit is required for the accessory structures on Parts 3 & 4 denoted to be removed.

Kind Regards,

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

February 23, 2022

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

**Re: Consent Application B5-2022P**  
**1397 Station Street, Pelham**

Part of Lot 15, Plan 717, Being Parts 1, 2, 3, 4, 5 and 6 on Reference Plan 59R-3880 (Parts 3 and 4 on Sketch)

**Roll No. 2732 030 004 03200**

The subject parcel, shown as Part 4 on the attached sketch, is an interior parcel of land situated 57.50 meters east of Station Street, lying south of Summersides Boulevard, legally described above, in the Town of Pelham.

Application is made for consent to partial discharge of mortgage and consent to convey 594 square metres of land (Part 4), to be added to the abutting property to the south (Part 5), to provide additional land for the existing commercial business. Part 3 is to be retained for continued residential use of the dwelling known municipally as 1397 Station Street.

### **Applicable Planning Policies**

#### Planning Act (Consolidated July 2016)

Section 51 (24) states that when considering the division of land, regard shall be had to the health, safety, convenience, accessibility and welfare of the present and future inhabitants of the municipality and among other things to,

- a) The development's effect on provincial matters of interest;
- b) Whether the proposed subdivision is premature or in the public interest;
- c) Whether the plan conforms to the Official Plan and adjacent plans of subdivisions, if any
- d) The suitability of the land for such purposes;
- f) The dimensions and shapes of the proposed lots;
- h) Conservation of natural resources and flood control;
- i) The adequacy of utilities and municipal services;
- j) The adequacy of school sites

Section 53 (1) states a land owner may apply for a consent and the council may, subject to this section, give a consent if satisfied that a plan of subdivision is not necessary for the proper and

---

orderly development of the municipality.

The proposed severance upholds provincial interest by allowing the disposal of spare land for existing commercial land use. The severance is not premature, and does not compromise any future land use redevelopment. The proposed lot geometry is consistent with existing neighbourhood development and the community at large. Adequate municipal services and amenities are also available.

#### 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.

This consent application is an acceptable form of development which should not adversely impact the provincial interests, public health, safety or the quality of the human environment. In Planning staff’s opinion, the proposed consent is consistent with the PPS.

#### Growth Plan for the Greater Golden Horseshoe (2019)

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

The subject parcel is designated ‘Delineated Built-Up Area’ according to the Growth Plan. Guiding principles regarding how land is developed:

- Support the achievement of *complete communities* to meet people's needs through an

entire lifetime.

- Prioritize *intensification* and higher densities to make efficient use of land and *infrastructure*.
- Support a range and mix of housing options, including second units and *affordable* housing, to serve all sizes, incomes, and ages of households.
- Provide for different approaches to manage growth that recognize the diversity of communities in the GGH.
- Integrate climate change considerations into planning and managing growth.

The proposed lot boundary adjustment will facilitate the existing commercial activity on the consolidated lot and can better serve future development by adding additional land, thereby increases the flexibility of future development options and be able to help the Town to meet or exceed its *delineated built boundary* intensification targets. Planning staff are of the opinion the consent application conforms to the Growth Plan.

#### Regional Official Plan (Consolidated August 2014)

The Regional Official Plan designates the subject land as ‘Built-Up Area’ within the Urban Area Boundary.

The Regional Official Plan permits a full range of residential, commercial and industrial uses generally within the Urban Area, subject to the availability of adequate municipal services and infrastructure.

Regional staff did not object, nor request to be circulated for the application as the development does not conflict with Provincial and Regional interests and planning policies.

#### 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 severed part of the subject parcel as ‘East Fonthill Secondary Plan Area’, while the retained part of the parcel is designated as ‘Urban Living Area / Built Boundary’ according to Schedule ‘A1’. The East Fonthill Land Use Plan (Schedule A5) more specifically designates the severed portion of the lands as ‘EF-Medium Density Residential’.

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

- a) Fronts on and will be directly accessed by a public road;
  - ✓ Complies.
- b) Will not cause a traffic hazard;
  - ✓ No traffic hazard is anticipated as a result from this lot boundary adjustment.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
  - ✓ Complies.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
  - ✓ Complies.
- e) Will not have a negative impact on the drainage patterns in the area;
  - ✓ No concern.
- f) Will not affect the developability of the remainder of the lands, if they are designated for development by this Plan;
  - ✓ The location and geometry of both parcels are appropriate and the consolidated parcel will be capable of a variety of development scenarios.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
  - ✓ No impact to features and functions of environmental feature in the area.
- h) Conforms with Regional lot creation policy as articulated in the Regional Official Plan.
  - ✓ No objection from Region.
- i) Complies with the appropriate Provincial Minimum Distance Separation Formulae, where applicable.
  - ✓ Not applicable.

Town Planning staff are of the opinion the proposed lot boundary adjustment conforms to the local Official Plan.

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

The front portion of the subject land (1397 Station Street) is currently zoned 'Residential 3 (R3)' according to the Zoning By-law and the rear portion is zoned 'Agricultural (A)'. The permitted uses in the Residential 3 (R3) zone include:

- Semi-detached dwellings,
- Duplex dwellings,
- Buildings and structures accessory to the residential use.

The permitted uses in the Agricultural (A) zone include:

- Agricultural uses including greenhouses,
- Seasonal or permanent farm help houses on farms larger than 10ha
- One single detached dwelling

- Home occupations
- Kennels, animal hospitals
- Uses, buildings and structures accessory to a permitted use
- Forestry and conservation uses.

The front portion of the consolidated parcel (1395 Station Street) is currently zoned 'Residential 2 (R2)' according to the Zoning By-law and the rear portion is zoned 'Agricultural (A)'. The permitted uses in the Residential 2 (R2) zone include:

- a single detached dwelling,
- buildings and structures accessory to the residential use,
- home occupations.

The permitted uses in the Agricultural (A) zone are the same as listed above.

The resulting parcel configurations will continue to comply with all applicable zoning regulations pending the removal of accessory buildings as shown on sketch.

### **Agency & Public Comments**

On January 19, 2022, a notice of public hearing was circulated by the Secretary Treasurer of the Committee of Adjustment to applicable agencies, Town departments, and to all assessed property owners within 60 metres of the property's boundaries.

To date, the following comments have been received:

- Building Department (February 15, 2022)
  - A demolition permit is required for the accessory structures on Parts 3 & 4 denoted to be removed.
- Public Works Department (February 16, 2022)
  - Public Works Staff offers the following condition:
    1. That the Applicant confirm no existing utilities cross the proposed new property line. Should any services cross this new property line, the Applicant will be responsible for the cost associated with their relocations and/or removal.

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

### **Planning Staff Comments**

Application is made for consent to partial discharge of mortgage and consent to convey 594

square metres of land (Part 4), to be added to the abutting property to the south (Part 5), to provide additional land for the existing commercial business. Part 3 is to be retained for continued residential use of the dwelling known municipally as 1397 Station Street

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 August 19, 2021 to discuss the subject application. In addition to the Consent Sketch, a Planning Justification Report was provided in support of the proposed development.

The subject lands are located on the south of Summersides Boulevard, east of Station Street and are situated in a quickly evolving secondary plan growth area. The proposed boundary adjustment will provide for land consolidation for a future development plan of the rear portion of the lands that will be subject to future development applications.

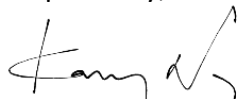
Based on the analysis in the sections above, Planning staff is of the opinion that the proposed lot boundary adjustment is consistent with the PPS and conforms to Provincial, Regional, and local plans. The resulting parcels comply with applicable Zoning By-law regulations and should not negatively impact the surrounding neighbourhood with regards to traffic, privacy and storm water runoff.

Given this analysis, Planning staff recommend that consent file B5-2022P **be approved** subject to the following conditions:

**THAT** the applicant

- Merge Part 4 with Part 5.
- Apply for and receive Demolition Permits prior to demolition of existing accessory structures as shown on the submitted sketch.
- Sign the Town of Pelham's standard "Memorandum of Understanding" explaining that Stormwater management oversizing payment, development charges and cash-in-lieu of the dedication of land for park purposes are required prior to the issuance of a Building Permit.
- Provide the Secretary-Treasurer with a registerable legal description of the subject parcel, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.
- Provide the final certification fee of \$411, payable to the Treasurer, Town of Pelham, be submitted to the Secretary-Treasurer. All costs associated with fulfilling conditions of consent shall be borne by the applicant.

Prepared by,



Kenny Ng, B.ES  
Planner

Approved by,



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



## Memo

**To:** Kenny Ng, 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:** 16<sup>th</sup> February 2022

**File No.:** B5/2021P

**RE:** Consent – 1397 Station Street.

Town of Pelham Public Works Staff have reviewed the above noted application and supporting documentation to address the technical concerns regarding the submitted consent application.

Application is made for consent to partial discharge of mortgage and consent to convey 594 square metres of land (Part 4), to be added to the abutting property to the south (Part 5), to provide additional land for the existing commercial business. Part 3 is to be retained for continued residential use of the dwelling known municipally as 1397 Station Street.

Public Works request the following conditions:

1. That the Applicant confirm no existing utilities cross the proposed new property line. Should any services cross this new property line, the Applicant will be responsible for the cost associated with their relocations and/or removal.

To: Sarah Leach

Cc: Kenny Ng,

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

Date: February 15, 2022

Subject: Building Comments on Applications to the Committee of Adjustment for  
Consents/Minor Variances – March 1<sup>st</sup>, 2022 Hearing

Comment for Re: File A3/2022P 16 Swan Ave.

The building department offers the following comment,

- A building permit is required for the proposed dwelling.

Comment for Re: File B5/2022P 1397 Station St.

The building department offers the following comment,

- A demolition permit is required for the accessory structures on Parts 3 & 4 denoted to be removed.

Kind Regards,

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

**Committee of Adjustment  
Minutes**

**Meeting #:** CofA 01/2022  
**Date:** Tuesday, January 11, 2022  
**Time:** 4:00 pm  
**Location:** Town of Pelham Municipal Office - Council Chambers  
20 Pelham Town Square, Fonthill

Members Present      Donald Cook  
                                Bernie Law  
                                Sandra Marsh

Members Absent      John Klassen  
                                Brenda Stan

Staff Present          Holly Willford  
                                Sarah Leach  
                                Kenny Ng  
                                Jacquie Miller  
                                Shannon Larocque  
                                Derek Young

**1. Attendance**

Applicants, 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. Sarah Leach, Assistant Secretary-Treasurer, recited the land recognition statement.

Noting that a quorum was present, Chair Cook called the meeting to order at approximately 4:00 pm. The Chair read the opening remarks to inform those present of the meeting protocols and he introduced the hearing panel and members of staff present.

**2.1 Land Recognition Statement**

**3. Disclosure of Pecuniary Interest and General Nature Thereof**

There were no pecuniary interests disclosed by any of the members present.

**4. Requests for Withdrawal or Adjournment**

Ms. Sarah Leach, Assistant Secretary-Treasurer stated no requests for withdrawal or adjournment have been made.

**5. Applications for Minor Variance**

**5.1 A1/2022P - 42 Philmori Boulevard**

**Purpose of the Application**

Application is made for relief, to construct a single detached dwelling, from: By-law 3325(2012). 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 By-law 3325(2012). Section R1-187(g) "Minimum Rear Yard" – to permit a minimum rear yard of 11.8m whereas the by-law requires 15m.

**Representation**

The Applicants Mr. Vartanian and Mr. Gonyou from Mountainview Homes Ltd. were electronically present.

**Correspondence Received**

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

**Applicants Comments**

The Applicants, Mr. Vartanian and Mr. Gonyou of Mountainview Homes Ltd provided a short presentation to further explain the application. A copy is available through the Clerk.

The Applicants indicated that they were in agreement with the planning recommendation report and proposed conditions of approval.

### **Public Comments**

Mr. Iqbal Khan, resident of 40 Philmori Boulevard, identified that he was involved in the evolution of the subdivision development. Mr. Khan stated that during the planning process, adequate space between the dwellings was desired to avoid overcrowding and ensure the escarpment view was not obstructed. Mr. Khan stated that the zoning was so strictly imposed that residents were not able to build a covered structure or deck in their rear yard. Mr. Khan stated that he has no objection to the dwelling being built according to the current Zoning By-law. Mr. Khan expressed that it would be unfair to build on the last available lot using a plan that does not match the surrounding dwellings. He further stated that even without the proposed reduction, the front corner of the dwelling would be close to his property as the lot is situated on a bend. Mr. Khan stated that the proposed dwelling will look different and change the impression of the residences.

Mr. Khan asked for clarification if the variance for minimum rear yard was sought to accommodate the entire deck or just the stairs. He stated that extending the deck beyond the current Zoning By-law allowance would compromise the rear yard privacy of both dwellings adjacent to the subject land. Mr. Khan stated he had no objection to the variance if only sought to accommodate the deck stairs. Mr. Khan reiterated that the dwelling should be built as it is currently permitted.

Mr. Ken Gonyou, Applicant, shared his screen displaying the proposed building footprint, being slide 5 of the Applicant's presentation. Mr. Gonyou responded that the variance is to accommodate the bottom part of the stairs and back part of the deck. He indicated that the deck would not adversely impact privacy. Mr. Gonyou stated that only the front corner of the one-story garage is encroaching into the side yard while the remaining side of the dwelling is farther from the permitted side yard setback. Mr. Gonyou indicated that there is no impact on the adjacent dwelling to the east.

Mr. Khan responded that the variance is clearly visible from the front view. Mr. Gonyou indicated that the dwelling was designed to fit the awkward angles of the lot while maintaining space, light and air between the dwellings. Mr. Gonyou shared a comparative building footprint, being slide 10 of the Applicant's presentation to illustrate that the proposed dwelling is

no more impactful than what is already permitted. Mr. Khan expressed concern regarding the symmetry of the dwellings due to the variance that is visible from the street. Mr. Gonyou shared an image illustrating the front elevation of the proposed two-storey dwelling, being slide 12 of the Applicant's presentation. Mr. Gonyou indicated that the dwelling has been sculpted for less bearing on the streetscape.

Ms. Sarah Leach, Assistant Secretary Treasurer indicated she checked the [clerks@pelham.ca](mailto:clerks@pelham.ca) email address at 4:42 pm and confirmed no e-mails has been received with regard to the subject application. Ms. Leach indicated the public comment portion of the application could be closed. The Committee agreed to close the public portion of the meeting and deliberate.

**Moved By** Sandra Marsh

**Seconded By** Bernie Law

**THAT the public portion of the meeting be closed.**

**Carried**

### **Member Comments**

A Member asked how the easement located along the rear property line would be accessed without disrupting the Edge Management Plan, if necessary. Mr. Gonyou responded that the Town would request permission from the owner to access the land. If modification was required for access, Mr. Gonyou indicated that the homeowner would be responsible for re-installation.

A Member asked how the roof line impacts the requested 1.9 metre side yard setback. Mr. Gonyou stated that eaves are permitted encroachments into the setback. The Member indicated that the proposed home was suited for the lot but stated his obligation to consider the correspondence received from surrounding neighbors. The Member stated they did not support the requested interior side yard variance. To address a written comment, Mr. Gonyou stated that at the time the subdivision was built, architectural controls were implemented which required conformity from Mountainview Homes. Mr. Gonyou proposed reducing the eave overhang at the corner of the garage to 8 inches to alleviate concern. The Member responded that the 3 metre setback is respectable and it would be unfair to implement change with the last remaining lot in the subdivision.

A Member asked for the location of the catch basin that services this section of lots. Mr. Derek Young, Manager of Engineering, responded that the catch basin is located in the adjacent lot. The Member asked for clarification with respect to the Public Works comment pertaining to future development. Mr. Young clarified that the comment aimed to notify the proponent of possible stormwater requirements once the final grading plan is submitted.

A Member asked for clarification regarding the analysis of minor variance test one within the planning report. Kenny Ng, Planner, responded that comments were derived from the plans submitted. The Member indicated that he agreed with the test two analysis. He further indicated that with respect to the third test, he has difficulty supporting infrastructure maintenance as the reduction in side yard setback will make it difficult to get infrastructure into the back yard. The Member asked if the proposed shrubbery on the south side of the drainage gallery will cause detrimental impact to the drain as a result of rooting. Mr. Gonyou replied that the landscape plan would be reviewed and approved by the Planning and Public Works department. He indicated that the plan would be modified if necessary to ensure no adverse effects to the drainage system.

With respect to the proposed Niagara Region conditions, a Member suggested the additional requirement of a written undertaking. Ms. Shannon Larocque, Senior Planner, stated that the conditions are formulated to ensure completion prior to the issuance of the building permit. She indicated that without completion, the zoning variance is not approved. The Member expressed concern that the conditions could not be fulfilled prior to the final grading of the property.

A Member expressed concern with regard to runoff from the near golf course and asked where this water was drained. Mr. Young confirmed the storm management pond located at the intersection of Brewerton Boulevard and Haist Street. Mr. Young confirmed that the golf course does not drain through this subdivision. Mr. Gonyou stated that new subdivisions cannot exceed pre-development water runoff, therefore resulting in no negative impact on the creek or drainage system in the Town.

To address a Member's earlier concern regarding infrastructure maintenance, a Member indicated that smaller machines can navigate the proposed 1.9 metre setback without disruption. The Member agreed,

noting no further maintenance concern as the catch basin is not located on the subject lot.

**Moved By** Sandra Marsh  
**Seconded By** Donald Cook

**THAT Application for relief of By-law 3325(2012), 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, is hereby: GRANTED;**

**The above decision is based on the following reasons:**

1. The variance is minor in nature as it will not negatively impact the adjacent neighbourhood with respect to shade potential, privacy, spacing and openness, storm water runoff and amenity space.
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 the creation of a reasonably sized dwelling on a large, vacant 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.
7. The Applicant is aware of the existing storm water management easement located along the northern limits of the property.
8. The Applicant is aware that a one metre offset from the side yard lot lines must remain free and clear of all encumbrances for swales and drainage purposes.
9. The Applicant is aware that the driveway apron must be paved within one year of occupation being granted.

**AND THAT Application for relief of By-law 3325(2012), Section R1-187(g) “Minimum Rear Yard” – to permit a minimum rear yard of 11.8m whereas the by-law requires 15m, is hereby: GRANTED;**

**The above decision is based on the following reasons:**



1. The variance is minor in nature as the reduction is minimal in nature and will not result in a negative impact to adjacent natural heritage features as well as the neighbourhood.
2. The general purpose and intent of the Zoning By-Law is maintained.
3. The intent of the Official Plan is maintained.
4. The proposal is desirable for the appropriate development and/or use of the land because the reduction will facilitate a less disruptive structure being a covered deck, as opposed to a building foundation with higher levels of impact.
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.
7. The Applicant is aware of the existing storm water management easement located along the northern limits of the property.
8. The Applicant is aware that a one metre offset from the side yard lot lines must remain free and clear of all encumbrances for swales and drainage purposes.
9. The Applicant is aware that the driveway apron must be paved within one year of occupation being granted.

The above decisions are subject to the following conditions:

1. That all necessary building permits are required prior to construction commencing, to the satisfaction of the Chief Building Official.

**Prior to Building Permit:**

1. To the Satisfaction of the Director of Public Works
  1. Submit an overall Lot Grading & Drainage Plan demonstrating that the drainage neither relies, nor negatively impacts neighbouring properties, to the satisfaction of the Director of Public Works, or designate.
2. To the Satisfaction of the Niagara Region
  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.

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.

**Carried**

**6. Applications for Consent**

None.

**7. Minutes for Approval**

None.

**8. Adjournment**

**Moved By** Bernie Law

**Seconded By** Sandra Marsh

**BE IT RESOLVED THAT this Meeting of the Committee of Adjustment Hearing be adjourned until the next regular meeting scheduled for February 1, 2022 at 4:00 pm.**

**Carried**

---

Don Cook, Chair

---

Sarah Leach, Assistant Secretary-Treasurer

**Committee of Adjustment****Minutes**

**Meeting #:** CofA 02/2022  
**Date:** Tuesday, February 1, 2022  
**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** Bernie Law  
Sandra Marsh

**Staff Present** Sarah Leach  
Holly Willford  
Kenny Ng  
Shannon Larocque  
Derek Young  
Jacquie Miller

**1. Attendance**

Applicants, 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. Sarah Leach, Assistant Secretary-Treasurer, recited the land recognition statement.

Noting that a quorum was present, Chair Cook called the meeting to order at approximately 4:00 pm. The Chair read the opening remarks to inform those present on the meeting protocols and he introduced the hearing panel and members of staff present.

**2.1 Land Recognition Statement**

**3. Disclosure of Pecuniary Interest and General Nature Thereof**

There were no pecuniary interests disclosed by any of the members present.

**4. Requests for Withdrawal or Adjournment**

Ms. Sarah Leach, Assistant Secretary-Treasurer stated no requests for withdrawal or adjournment have been made.

**5. Applications for Minor Variance**

**5.1 A2/2022P - 368 Canboro Road**

**Purpose of the Application**

Application is made for relief, to construct a 2 storey single detached dwelling, from: Section 7.4(c) “Maximum Lot Coverage” – to permit a maximum lot coverage of 15% whereas the by-law allows 10%; Section 7.4(f) “Minimum Side Yard” – to permit a minimum side yard of 1.2 metres whereas the by-law requires 9 metres; and Section 6.16(d)(iv) “Ingress and Egress – Minimum Distance Between Driveway Measured Along the Street Line” – to permit a minimum distance between driveways of 1.5 metres from the eastern property line and 1.5 metres from the western property line whereas the by-law requires 7.5 metres.

**Representation**

The Agent, Mr. William Heikoop from Upper Canada Consultants and the Applicant, Mr. James Van Den Brink were electronically present.

**Correspondence Received**

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Niagara Region
5. Erik Rohrmoser and Jessica Szaszi
6. Howard and Cyndy Best
7. Nigel Witteveen and Caitlin Manson
8. Wes and Pat Crowe
9. Wendy Audette
10. John and Susan Pruyn

### Pre-Registered Members of the Public

1. Erik Rohrmoser and Jessica Szaszi
2. Nigel Witteveen and Caitlin Manson

### **Applicants Comments**

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

Mr. Heikoop indicated that the proposal was before the Committee of Adjustment for a second time as the configuration of the dwelling had changed. A condition of approval imposed at the October 2021 hearing with respect to a tree inventory plan could not be satisfied.

### **Public Comments**

Mr. Erik Rohrmoser asked why the applicant is not able to build in the original building footprint. Mr. Heikoop explained that a tree inventory plan was a previous condition of approval. He indicated that without the permission of the abutting homeowner to remove shared trees, the condition of an approved tree inventory plan could not be fulfilled.

Mr. Rohrmoser requested that the dwelling be rotated southward to mitigate sightline issues for adjacent backyards. The Chair clarified that the Committee cannot dictate the direction of the dwelling. Mr. Rohrmoser asked for clarification if the driveway counted toward lot coverage. He expressed concern that a large portion of agricultural land would be lost to development. Ms. Shannon Larocque, Senior Planner, confirmed that only structures apply to lot coverage.

Mr. Nigel Witteveen stated that the variances are not minor. He stated that reducing the side yard will negatively impact privacy rendering the development undesirable. He further stated that the dwelling would appear out of character and have a large impact on neighboring properties. Mr. Witteveen indicated that a smaller dwelling would not impact the existing trees, privacy or use of neighboring backyards.

Mr. Heikoop agreed that positioning the dwelling at the front of the property made the most sense but reiterated the inability to receive consent from the abutting property owner to remove the shared trees.

Ms. Sarah Leach, Assistant Secretary-Treasurer indicated she checked the [clerks@pelham.ca](mailto:clerks@pelham.ca) email address at 4:52 pm and confirmed no e-mails

has been received with regard to the subject application. Ms. Leach indicated the public comment portion of the application could be closed. The Committee agreed to close the public portion of the meeting and deliberate.

**Moved By** John Klassen

**Seconded By** Brenda Stan

**THAT the public portion of the meeting be closed.**

**Carried**

### **Member Comments**

A Member asked if major alterations would be required to manage the water on the property. Mr. Heikoop indicated that swales around the side property lines would accommodate water and there is no concern with respect to grading.

A Member suggested that a side yard setback variance of 3 metres would be sufficient. Mr. Heikoop stated that the variance will provide flexibility for the driveway. The Member suggested a minimum distance between driveways of 3 metres as opposed to 1.5 metres.

A Member expressed concern that a 1.2 metre side yard setback may not accommodate a deep enough swale to route drainage. The Member suggested a 3 metre setback. Mr. Heikoop stated that engineering staff at his firm confirmed that a swale can be accommodated with the variance. Mr. Heikoop indicated that if public works staff disagree, an increase in side yard setback can be requested before the condition of a lot grading and drainage plan be approved.

**Moved By** John Klassen

**Seconded By** Bernie Law

**Application for relief of Section 7.4(c) “Maximum Lot Coverage” – to permit a maximum lot coverage of 15% whereas the by-law allows 10%, is hereby: GRANTED;**

**The above decision is based on the following reasons:**

- 1. The variance is minor in nature as the impact on the subject property and adjacent properties is minimal.**

2. The general purpose and intent of the Zoning By-Law is maintained.
3. The intent of the Official Plan is maintained.
4. The proposal is desirable for the appropriate development and/or use of the land because the overall lot coverage is not significantly increased and the proposed dwelling is average sized.
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.

**Application for relief of Section 7.4(f) “Minimum Side Yard” – to permit a minimum side yard of 1.2 metres whereas the by-law requires 9 metres, is hereby: GRANTED;**

**The above decision is based on the following reasons:**

1. The variance is minor in nature as no adverse impacts are anticipated to the subject property and surrounding properties given that the dwelling is sufficiently separated from adjacent dwellings.
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 there is adequate distance which separates the proposed building from adjacent structures on neighbouring properties. Adequate space remains around the building for access and ample open space in the rear yard is retained.
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.**

**Application for relief of Section 6.16(d)(iv) “Ingress and Egress – Minimum Distance Between Driveways” – to permit a minimum distance between driveways of 1.5 metres from the side property lines whereas the by-law requires 7.5 metres, is hereby: GRANTED.**

**The above decision is based on the following reasons:**

- 1. The variance is minor in nature as the proposed driveway is generally located in the same area as the existing driveway and will be located more centrally within the site.**
- 2. The general purpose and intent of the Zoning By-Law is maintained.**
- 3. The intent of the Official Plan is maintained.**
- 4. The proposal is desirable for the appropriate development and/or use of the land because the driveway will be relocated to a more central location within the site and would improve vehicular circulation and accessibility.**
- 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:**

- 1. That all necessary building permits are required prior to construction commencing, to the satisfaction of the Chief Building Official.**

**Prior to Building Permit:**

- 1. To the Satisfaction of the Director of Public Works**
  - 1. Obtain approval for a Driveway Entrance & Culvert Permit for the construction of a new driveway or any modifications to an existing driveway/entrance. Installation and/or modification of a driveway/entrance shall be completed in accordance with**



**Town Standards. The applicant shall bear all costs associated with these works.**

- 2. Submit a comprehensive Lot Grading & Drainage Plan demonstrating that the drainage neither relies, nor negatively impacts neighbouring properties, to the satisfaction of the Director of Public Works, or designate.**

**2. To the Satisfaction of the Niagara Region**

- 1. That the applicant apply for and submit a Septic Permit Application along with a detailed septic design by an approved septic contractor/designer, to the Niagara Region, for review and approval. No construction shall commence prior to the clearance of this condition and upon a new septic system in place which can ensure full functionality.**

**Carried**

**6. Applications for Consent**

**6.1 B1/2022P - 147 Port Robinson Road (Part 1)**

Applications B1/2022P, B2/2022P and B3/2022P were heard concurrently.

**Purpose of the Application**

Application B1/2022P is made for consent to partial discharge of mortgage and consent to convey 414 square metres of land (Part 1), to be merged with the partial lot to the east in the future. Part 4 is to be retained for continued residential use of the dwelling known municipally as 147 Port Robinson Road.

Application B2/2022P is made for consent to partial discharge of mortgage and consent to convey 109 square metres of land (Part 2), to be dedicated to the Town of Pelham as a public laneway. Part 4 is to be retained for continued residential use of the dwelling known municipally as 147 Port Robinson Road.

Application B3/2022P is made for consent to partial discharge of mortgage and consent to convey 659 square metres of land (Part 3), to be dedicated to the Town of Pelham as a public roadway (Moody Street extension).

Part 4 is to be retained for continued residential use of the dwelling known municipally as 147 Port Robinson Road.

### **Representation**

The Agents, Mr. Stephen Fischer and Ms. Stephanie Fischer of ePrime Construction Management were electronically present.

### **Correspondence Received**

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Bell Canada
5. Amy Zavitz

### **Applicants Comments**

The Agent, Mr. Fischer stated the intent of the application is to facilitate the neighborhood plan to the west of the subject property.

### **Public Comments**

Ms. Sarah Leach, Assistant Secretary Treasurer indicated she checked the [clerks@pelham.ca](mailto:clerks@pelham.ca) email address at 5:15 pm and confirmed no e-mails has been received with regard to the subject application. Ms. Leach indicated the public comment portion of the application could be closed. The Committee agreed to close the public portion of the meeting and deliberate.

**Moved By** John Klassen

**Seconded By** Brenda Stan

**THAT the public portion of the meeting be closed.**

**Carried**

### **Member Comments**

The Members indicated they had no comments or objections.

**Moved By** Brenda Stan  
**Seconded By** John Klassen

**THAT Application B1/2022P is made for consent to partial discharge of mortgage and consent to convey 414 square metres of land (Part 1), to be merged with the partial lot to the east in the future. Part 4 is to be retained for continued residential use of the dwelling known municipally as 147 Port Robinson Road, is hereby: GRANTED;**

**The above decision is subject to the following conditions:**

**To the Satisfaction of the Director of Public Works**

- 1. Obtain a Driveway Entrance and Culvert Permit from the Town to construct a new access to serve Part 1. 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.**

**To the Satisfaction of the Director of Community Planning & Development**

- 1. Obtain final approval for a site-specific Zoning By-law Amendment to rezone the merged lot, as well as to address any deficient Zoning By-law regulations resulting from the lot's creation to the satisfaction of the Director of Community Planning and Development.**
- 2. Sign the Town of Pelham's standard "Memorandum of Understanding" explaining that development charges and cash-in-lieu of the dedication of land for park purposes are required prior to the issuance of a Building Permit.**
- 3. Conduct a Stage 1-2 Archaeological Assessment prepared by a licensed archaeologist and receive clearance from the Ministry of Heritage, Sport, Tourism & Culture.**
- 4. That the applicant submit a Lot Priority Plan.**
- 5. That the applicant submit a Solicitor's Certificate of Ownership and a Surveyor's Certificate showing lot frontage and net lot area for the final merged lot.**

**To the Satisfaction of the Secretary-Treasurer**

1. That application for consent, file B1/2022P receive final certification of the Secretary-Treasurer concurrently with applications B2/2022P and B3/2022P.
2. 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 east (Partial lot within River Estates Phase 2 Subdivision), 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.
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 \$411, 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.

**AND THAT Application B2/2022P is made for consent to partial discharge of mortgage and consent to convey 109 square metres of land (Part 2), to be dedicated to the Town of Pelham as a public laneway. Part 4 is to be retained for continued residential use of the dwelling known municipally as 147 Port Robinson Road, is hereby: GRANTED;**

**To the Satisfaction of the Secretary-Treasurer**

1. That application for consent, file B2/2022P receive final certification of the Secretary-Treasurer concurrently with applications B1/2022P and B3/2022P.
2. Pursuant to Section 50(12) of the Planning Act, R.S.O. 1990, as amended, it is hereby stipulated that Section 50(3) or 50(5) shall apply to any subsequent conveyance of, or other transaction involving, the identical subject parcel of land. Therefore, once the

subject parcel of land has been conveyed to the owner of the parcel abutting to the north (Block 59 on Registered Plan 59M-471), 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.

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 \$411, 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.

**AND THAT Application B3/2022P is made for consent to partial discharge of mortgage and consent to convey 659 square metres of land (Part 3), to be dedicated to the Town of Pelham as a public roadway (Moody Street extension). Part 4 is to be retained for continued residential use of the dwelling known municipally as 147 Port Robinson Road, is hereby: GRANTED;**

**To the Satisfaction of the Director of Public Works**

1. Gratuitously grant Part 3 to the Town of Pelham. Conveyance is to be conveyed free and clear of any mortgages, liens or other encumbrances, and is to be described by Reference Plan. 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 Director of Community Planning and Development and Secretary-Treasurer of the Committee of Adjustment for approval.
2. Confirm that no existing utilities cross the proposed lot lines. Should any services cross these lot lines, the applicant shall be responsible for costs associated with their relocation and / or removal.

**To the Satisfaction of the Secretary-Treasurer**

1. That application for consent, file B3/2022P receive final certification of the Secretary-Treasurer concurrently with applications B1/2022P and B2/2022P.
2. 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.
3. That the final certification fee of \$411, 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 decisions are based on the following reasons:

1. The applicant is aware a site-specific Zoning By-law Amendment is required to rezone the merged lot.
2. The applicant is aware any deficient Zoning By-law regulations resulting from the lot's creation must be rectified.
3. 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.
4. 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.
5. 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**

## **6.2 B2/2022P - 147 Port Robinson Road (Part 2)**

Application B2/2022P was heard concurrently with applications B1/2022P and B3/2022P. See application B1/2022P for minutes and decision.

### **6.3 B3/2022P - 147 Port Robinson Road (Part 3)**

Application B3/2022P was heard concurrently with applications B1/2022P and B2/2022P. See application B1/2022P for minutes and decision.

### **6.4 B4/2022P - 1620 Haist Street (Part 1)**

#### **Purpose of the Application**

Application is made for consent to convey 0.117 hectares of land (Part 1 on sketch), to be added to the abutting property to the north, being 1636 Haist Street (Part 2) on sketch, for residential use. Part 3 is to be retained for future residential use.

#### **Representation**

The Agent, Mr. Peter Drury was electronically present.

#### **Correspondence Received**

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Niagara Region
5. Bell Canada
6. Hydro One
7. Mr. & Mrs. Hubbard
8. Oscar and Janet Weiland
9. Iqbal Khan
10. Dale Nicholson
11. Kathy and Alan Shaw
12. Warren Fine
13. Tom Eansor

#### **Pre-Registered Members of the Public**

1. Warren Fine
2. Kathy Shaw
3. Larry Colangelo

#### **Applicants Comments**

The Agent, Mr. Drury indicated that he had no comments.

## **Public Comments**

Mr. Warren Fine stated no objection to the merger of Parts 1 and 2. Mr. Fine asked for confirmation that the road allowance between Lots 2 and 3, Concession 7 had been closed. A Member confirmed that the road allowance was closed.

Ms. Kathy Shaw expressed concern that the sketch was not current. A Member advised that if approved and registered, the plan of survey would be updated. Ms. Shaw questioned the inclusion of Part 3 within the purpose of application. Ms. Shannon Larocque clarified that the intent of the application is a boundary adjustment to rectify a driveway that is encroaching onto neighboring land. Ms. Larocque stated that this application will not give permissions to any other land.

Ms. Lucy Colangelo stated that all of her concerns were addressed in the previous conversation.

Ms. Leach confirmed receipt of an email from Rob Hickson inquiring how this application will affect any aspect of the road allowance. A Member indicated that the road allowances between Concession 6 and 7, between Haist Street and Pelham Street as well as between Lots 2 and 3 Concession 7 have been closed.

Ms. Sarah Leach, Assistant Secretary Treasurer indicated she checked the [clerks@pelham.ca](mailto:clerks@pelham.ca) email address at 5:44 pm and confirmed no additional e-mails have been received with regard to the subject application. Ms. Leach indicated the public comment portion of the application could be closed. The Committee agreed to close the public portion of the meeting and deliberate.

**Moved By** John Klassen

**Seconded By** Brenda Stan

**THAT the public portion of the meeting be closed.**

**Carried**

## **Member Comments**

A Member stated that the application is a simple boundary adjustment and emphasized that the road allowances are not relevant to the intent of the application.



**Moved By** John Klassen  
**Seconded By** Brenda Stan

**THAT Application B4/2022P for consent to convey 0.117 hectares of land (Part 1 on sketch), to be added to the abutting property to the north, being 1636 Haist Street (Part 2) on sketch, for residential use. Part 3 is to be retained for future residential use; is hereby: GRANTED;**

**The above decision is subject to the following conditions:**

**To the Satisfaction of the Secretary-Treasurer**

- 1. Pursuant to Section 50(12) of the Planning Act, R.S.O. 1990, as amended, it is hereby stipulated that Section 50(3) or 50(5) shall apply to any subsequent conveyance of, or other transaction involving, the identical subject parcel of land. Therefore, once the subject parcel of land has been conveyed to the owner of the parcel abutting to the north (Part 2 on sketch), the subject parcel and the said abutting parcel shall merge in title and become one contiguous parcel of land. A solicitor's written undertaking shall be provided to the Secretary-Treasurer indicating that the necessary steps to implement the conveyance will be taken, together with the registrable legal descriptions of the subject parcel and the consolidated parcel. That the Secretary-Treasurer be provided with a registrable legal description of the subject parcel, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.**
- 2. That the final certification fee of \$411, payable to the Treasurer, Town of Pelham, be submitted to the Secretary-Treasurer. All costs associated with fulfilling conditions of consent shall be borne by the applicant.**

**This decision is based on the following reasons:**

- 1. The application conforms to the policies of the Town of Pelham Official Plan, Regional Policy Plan and Provincial Policy Statement, and complies with the Town's Zoning By-law.**

2. **This Decision is rendered having regard to the provisions of Sections 51(24) and 51(25) of the Planning Act, R.S.O., as amended.**
3. **The Committee of Adjustment considered all written and oral submissions and finds that, subject to the conditions of provisional consent, this application meets Planning Act criteria, is consistent with the Provincial Policy Statement and complies with the Growth Plan, the Niagara Region Official Plan and the Town Official Plan.**

**Carried**

**7. Minutes for Approval**

**Moved By** John Klassen

**Seconded By** Brenda Stan

**THAT the Committee of Adjustment minutes dated December 7, 2021, be approved.**

**Carried**

**8. Adjournment**

**Moved By** John Klassen

**Seconded By** Brenda Stan

**BE IT RESOLVED THAT this Meeting of the Committee of Adjustment Hearing be adjourned until the next regular meeting scheduled for March 1, 2022 at 4:00 pm.**

**Carried**

---

Don Cook, Chair

---

Assistant Secretary-Treasurer, Sarah Leach