

**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**

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Don Cook, Chair

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Sarah Leach, Assistant Secretary-Treasurer