

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 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 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 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