



**Community Planning and Development Department**  
**Committee of Adjustment**  
Tuesday, August 02, 2022

**Consent Application: B7/2022P**

**Municipal Address:** 1112 Line Avenue

**Legal Description:** Part of Lot 177, Formerly Township of Thorold now Town of Pelham, Part 1 and 2 on 59R-6922

**Roll number:** 2732 030 019 03200

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**Location of Lands and Purpose of Application:**

The subject parcel, shown as Part 3 and 4 on the attached sketch, is a parcel of land along Line Avenue south of Bacon Lane, being part of Lot 177, legally described above, in the Town of Pelham. Part 3 and 4 are subject to an easement to the benefit of the Town of Pelham (Instrument No. SN449927) in relation to drainage.

Application is made for consent to partial discharge of mortgage and consent to convey 2,242.3 square metres of land (Part 3), to be added to the abutting property to the west (Part 5), for future development (Tanner Extension lands). Part 4 is to be retained for continued residential use of the dwelling known municipally as 1112 Line Avenue.

The lands to the west, being Part 5, are currently subject to *Planning Act* applications for Draft Plan of Subdivision (Town File: 26T19-03-2021) and Zoning By-law Amendment (Town File: AM-12-2021) and are known as the Tanner Extension.

Note that this application is being heard in conjunction with Consent File B8/2022P.

**Applicable Planning Policies:**

Planning Act (Consolidated April 2022)

Section 51(24) of the *Planning Act* 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 matters, including:

- 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 boundary adjustment seeks to partial discharge of mortgage and consent to convey 2,242.3 square metres of land (Part 3), to be added to the abutting property to the west (Part 5), for future development.

#### 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 lands are located in a “Settlement Area”, the Fonthill Urban Settlement Area, according to the PPS. Policy 1.1.3.1 states that settlement areas shall be the focus of growth and development.

Policy 2.6.2 states that development and site alteration shall not be permitted on lands containing archaeological resources or archaeological potential unless the resources have been conserved. The Town’s Heritage Master Plan identifies this area as having high archaeological resource potential, however a boundary adjustment is not considered “development” under the PPS and therefore as there is no site alteration proposed, an archeological assessment is not required. The applicant is advised that any future *Planning Act* application involving the subject lands may require the completion of an archaeological assessment.

The proposed parcel reconfiguration is being made to reconfigure existing lot lines and does not include any site alteration or construction. Planning staff are of the opinion the requested boundary adjustment is consistent with the PPS.

#### Greenbelt Plan (2017)

The Greenbelt Plan designates the subject lands as 'Settlement Areas Outside the Greenbelt.' As such, the policies of the Greenbelt Plan do not apply to the subject lands.

Growth Plan for the Greater Golden Horseshoe (2020)

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 to 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 Growth Plan contains various guiding principles which are intended to guide decisions of how land is developed. The guiding principles include building compact, vibrant, and complete communities, managing and encouraging development in appropriate locations, and optimizing the use of existing infrastructure.

The subject lands are designated 'Delineated Built-Up Area' according to the Growth Plan. The proposed conveyance facilitates a boundary adjustment and would not be considered development. Further, the proposed lot boundary adjustment will facilitate the development of the Tanner Extension lands to the west, resulting in a consolidated lot that will increase the flexibility of future development options and be able to help the Town to meet or exceed its *delineated built boundary* intensification targets. Accordingly, Staff is of the opinion that the proposed boundary adjustment is in keeping with the policies of the Growth Plan.

Niagara Region Official Plan (Consolidated, August 2014)

The Regional Official Plan (ROP) designates the subject lands as 'Designated Urban Area (Built-Up Area).'

The ROP directs development to take place in urban areas to support intensified development where appropriate servicing and infrastructure exists. Provincial and Regional policy place an emphasis on intensification and infill to foster the development of complete communities, including a mix of diverse land uses and housing choices, expanding access to many forms of transportation, and providing spaces that are vibrant and resilient in design.

A full range of residential uses are permitted generally within the Urban Area designation, subject to adequate municipal servicing and infrastructure and other policies relative to land use compatibility and environmental conservation.

The property is impacted by the Region's Core Natural Heritage System (CNHS), consisting of Significant Woodland. Consistent with ROP Policy 7.B.1.11, an Environmental Impact Study (EIS) is generally required in support of site alteration and/or development proposed within 50 m of Significant Woodland. Regional staff note no objection to the application and confirm that no environmental studies are required in support of it.

It is noted that consistent with ROP policy 7.B.1.11, an Environmental Impact Study (EIS) will likely be required in support of any future site alteration and/or development proposed on the subject lands to demonstrate that there will be no significant negative impact on the feature or its ecological function.

Regional staff did not object as the proposal does not conflict with Provincial or Regional interests and planning policy.

#### Town of Pelham Official Plan (2014)

The Town of Pelham Official Plan is the primary planning document that will direct the actions of the Town and shape growth that will support and emphasize Pelham's unique character, diversity, cultural heritage and protect our natural heritage features.

The local Official Plan designates the subject land as 'Urban Living Area/Built Boundary' on Schedule 'A1' with the presence of a Highly Vulnerable Aquifer (HVA) per Schedule B1.

The subject lands are adjacent to an area identified as a Potential Intensification Area. The lands are also subject to a special set of policies under the Official Plan for the "Lot 177 Secondary Plan Area".

Per Section B1.1.3 of the Official Plan, residential intensification is generally encouraged in the Urban Living Area in order to provide for the efficient use of land and existing services.

Policy A4.1.1 states that lands designated Urban Living Area are the site of existing and planned residential development and complementary uses on full municipal services, or planned to be connected to full municipal services all within the urban boundaries of the Fonthill and Fenwick Settlement Areas.

Section B1.1.11 of the Official Plan contains additional policy direction for the "Lot 177 Secondary Plan Area". The Lot 177 area is located in the 'Urban Living Area' designation and represents one of the most substantial infill areas within the Fonthill settlement area. Lot 177 is characterized by extensive under developed areas and/or vacant land. The intent of the special policy area is to implement a coordinated approach to the orderly infill development of the area. The proposed boundary adjustment will enhance the viability of the future development of the lands to the west through the proposed lot consolidation.

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 that is maintained on a year round basis;
  - ✓ Unchanged. Future access to lands will be accessed from the Tanner Extension subdivision.

- b) Will not cause a traffic hazard as a result of its location on a curve or a hill;  
✓ Unchanged.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;  
✓ Yes.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;  
✓ Yes. Serviced via municipal infrastructure.
- e) Will not have a negative impact on the drainage patterns in the area;  
✓ Yes. Town staff will require a comprehensive lot grading and drainage plan demonstrating that storm water runoff will not negatively impact nor rely upon neighboring properties.
- f) Will not affect the develop ability of the remainder of the lands, if they are designated for development by this Plan;  
✓ Each land designation and zone are proposed to remain intact on their respective parcels.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;  
✓ No negative impact.
- h) Conforms with Regional lot creation policy as articulated in the Regional Policy Plan; and,  
✓ No objection from Region Development Services Division.
- i) Complies with the appropriate provincial Minimum Distance Separation Formulae, where applicable.  
✓ N/A.

Policy D5.2.2 sets the policy basis for boundary adjustments. The policy states: A consent may be permitted for the purpose of correcting conveyances, enlarging existing lots or through acquisition by a public body, provided no new building lot is created. In reviewing an application for a boundary adjustment, the Committee of Adjustment shall be satisfied that the boundary adjustment will not affect the viability of the use of the properties affected as intended by this Plan.

The viability of the both the benefiting and retained lands will be maintained. Upon completion of the boundary adjustment, the existing single detached dwelling on the retained lands (Part 4) will retain a large lot area and rear yard. The viability of the retained lands for residential use remains intact. The viability of the benefiting lands is enhanced through a larger lot area for future residential development.

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 subject lands are currently zoned 'Residential 1' (R1) per Schedule 'A5.' Part 3 will continue to comply with the provisions of the R1 zone after parcel reconfiguration. Any future development of the subject lands will continue to need to comply with their respective zoning regulations and permitted uses.

## **Agency and Public Comments:**

On July 6<sup>th</sup>, 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 (July 18, 2022)
  - No comment.
- Public Works Department (July 20, 2022)
  - Please note part 2 of 59R6922 is subject to right-of-way. As per town standard, no structures can be built on Town ROW.
  - Please note a 3m Easement dedicated to the Town for future pedestrian walkway connection to Line Avenue.
  - Town staff will require a comprehensive lot grading and drainage plan demonstrating that storm water runoff will not negatively impact nor rely upon neighboring properties, to the satisfaction of the Director of Public Works or his designate.
- Niagara Region Development Services Division (July 20, 2022)
  - The properties are adjacent to the Region's Core Natural Heritage System (CNHS), consisting of Significant Woodland. Staff offer no objection to the proposed consent applications and confirm that no environmental studies are required in support of it.
  - Consistent with Regional Official Plan (ROP) policy 7.B.1.11, an Environmental Impact Study (EIS) will likely be required in support of any future site alteration and/or development proposed on the subject lands to demonstrate that there will be no significant negative impact on the feature or its ecological function.

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

## **Planning Staff Comments:**

Application is made for consent to partial discharge of mortgage and consent to convey 2,242.3 square metres of land (Part 3), to be added to the abutting property to the west (Part 5), for future residential development. Part 4 is to be retained for continued residential use of the dwelling known municipally as 1112 Line Avenue.

A pre-consultation meeting was held with the applicant of the property and staff from the Town and Niagara Region Planning & Development Services on May 19, 2022 to discuss the subject application. In addition, a consent sketch and planning justification brief was provided in support of the proposed development.

Based on the analysis in the sections above, Planning staff is of the opinion that the proposed boundary lot 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 respect to traffic, privacy, and stormwater management. The proposed boundary adjustment provides for land consolidation need for future residential development and, therefore it can be supported by Staff.

### **Planning Staff Recommendation:**

Planning staff recommend that consent file B7/2022P **be approved** subject to the following condition(s):

**THAT** the applicant:

- Ensure Part 3 merges in title with Part 5.
- Ensure the Secretary-Treasurer is provided with sufficient evidence indicating that the conveyance of a minimum 3.0m strip of land through Part 4 on the Consent Sketch be deeded to the Town of Pelham, for the purposes of a pedestrian connection. This transfer of easement shall be completed to the satisfaction of the Director of Public Works, in order to facilitate the boundary adjustment proposed in this application, said lands shall be conveyed free and clear of any mortgages, liens or encumbrances. All costs associated with this conveyance are the responsibility of the applicant.
- Town staff will require a comprehensive lot grading and drainage plan for Part 4 demonstrating that storm water runoff will not negatively impact nor rely upon neighboring properties, to the satisfaction of the Director of Public Works or his designate.
- 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 and Submitted by:**

Andrew Edwards, BES  
Planner

### **Recommended by:**

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