



**Community Planning and Development Department
Committee of Adjustment**

Tuesday, November 01, 2022

Minor Variance Application: A14-2022P

Municipal Address: 14 Wellington Court

Legal Description: Plan 59M-218, Part Blocks 59 and 60, being Part 12 on Plan 59R-10540

Roll number: 2732 030 012 80000

Nature and Extent of Relief/ Permission Applied for:

The subject land is located on the west side of Wellington Court, lying south of Beckett Crescent, legally described above, and known locally as 14 Wellington Court in the Town of Pelham.

The subject land is zoned Residential Multiple 1 Exception 117 (RM1-117) in accordance with Pelham Zoning By-law 1136(1987), as amended. Application is made to construct a 14.49 square metre unheated sunroom addition, and seeks for relief from:

- a. **Section 16.3(g) "Minimum Rear Yard"**: requesting a minimum 3.96 metre rear yard setback, whereas 7.5 metres is required.

Applicable Planning Policies:

Planning Act, R.S.O. 1990, c.P.13

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 (the "Four Tests").

Provincial Policy Statement (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 suitable 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.

Policy 1.1.3.4 states appropriate development standards should be promoted which facilitate intensification, redevelopment and compact form, while avoiding or mitigating risks to public health and safety.

Staff are of the opinion that the proposed variance is consistent with the Provincial Policy Statement.

Greenbelt Plan (2017)

The lands are located outside of the Greenbelt Plan and thus the policies of the Greenbelt Plan do not apply.

Growth Plan for the Greater Golden Horseshoe (2020)

The Growth 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 subject lands are located within the Delineated Built Boundary.

The Growth Plan policies aim to build stronger, prosperous communities by directing growth to built-up areas, promoting transit-supportive densities and a healthy mix of residential and employment land uses, preserving employment areas, planning for community infrastructure, and supporting the conservation and protection of natural systems, prime agricultural areas, and cultural heritage.

Staff are of the opinion that the proposed variance conforms with the Growth Plan.

Regional Official Plan (Consolidated August 2014)

The Regional Official Plan (ROP) designates the subject lands as ‘Built-up Area’ within the Urban Area Boundary. Policy 4.G.6.2 states Built-Up Areas will be the focus of residential intensification and redevelopment.

The ROP directs development to take place in urban areas to support intensified development where appropriate servicing and infrastructure exists. The Plan puts an emphasis on intensification and infill to foster the development of complete

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

Staff are of the opinion that the proposed variance conforms with the Regional Official Plan.

Regional Official Plan (Adopted 2022)

The Region of Niagara adopted a new Official Plan on June 23, 2022 and it has been forwarded to the Province for review and approval, and approval is pending. Nevertheless, the new Region of Niagara Official Plan provides the policy guidance for future development across the Region.

The lands continue to be designated as Built-Up Area in the new Official Plan. Staff are of the opinion that the proposed variance conforms with the Regional Official Plan.

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 natural heritage features.

The local Official Plan designates the subject land as 'Urban Living Area / Built Boundary.' Section B1.1.2 outlines the permitted uses and intentions of this designation, which are supportive of the development of lower density residential uses as part of a complete community.

Policy A2.1.2 Natural Environment – states the natural environment objectives of this Plan are to make planning decisions that consider the health and integrity of the broader landscape as well as the long term and cumulative impacts on the ecosystem. No key natural heritage features (i.e. Significant Woodlands, Provincially Significant Wetlands or valleylands etc.) are located near the subject lands.

Policy A2.3.2 Urban Character – stated objectives of this Plan include (among others):

- To enhance the urban areas as diverse, livable, safe, accessible and attractive communities.
- To ensure that new development areas are integrated into the fabric of the existing community in conformity with approved Secondary Plans.
- To encourage the development of neighbourhoods which are compact, pedestrian-friendly and provide a mix of housing types.
- To foster a sense of civic identity through a high standard of urban design in public and private development.

The proposed minor variance to seek relief from the rear yard setback provision should not compromise drainage, privacy or sensitive natural heritage features and is in keeping with the residential character of the neighbourhood.

Staff are of the opinion that the proposed variance conforms with the Town of Pelham Official Plan.

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

The subject lands are zoned Residential Multiple 1 Exception 117 (RM1-117) in accordance with Pelham Zoning By-law 1136 (1987), as amended.

The exception states:

Nothing shall prevent the use of lands indicated as RM1-117 and forming part of the above noted Orders for RM1 uses, except that the total number of dwelling units shall be 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	Explanation
1. The variance is minor in nature.	<p>Yes. The requested variance is considered to be minor in nature.</p> <p>The variance represents a 3.54 metre reduction in the rear yard setback. The reduction in the rear yard setback is not anticipated to result in any negative impacts on the adjacent uses or substantially remove any of the rear yard amenity area of the lot. The variance is considered minor as it does not change the use of the site, nor does it substantially alter the functionality of the amenity space of the parcel. A generous rear and side yard amenity space is maintained. The sunroom addition is of a height and depth that does not adversely impact abutting properties. The addition maintains a generous setback to the neighbouring dwelling and its height is not anticipated to cause any shadowing impacts.</p> <p>Staff are of the opinion that the reduced rear yard setback is minor in nature.</p>
2. The variance is desirable for the development or use of the land.	<p>Yes. The requested variance is considered to be desirable for the appropriate development or use of the land.</p> <p>The rear yard addition is a single storey sunroom structure that is intended to provide additional indoor</p>

Minor Variance Test	Explanation
	<p>amenity space to an existing dwelling. The scale of the proposed sunroom will not create a negative precedent since the amenity area will be maintained and will not affect the original intent of the building design</p> <p>As a condition of minor variance the applicant will be required to obtain a building permit to ensure its construction meets Ontario Building Code.</p> <p>The requested variance is appropriate and desirable as it will not result in shadowing, will allow for the continued use of the rear and side yard as private amenity space, will not alter the function of the subject property, and is not anticipated to alter the streetscape in a significant way.</p> <p>Staff are of the opinion that the proposed minor variance is desirable for the development or use of the land.</p>
<p>3. The variance maintains the general intent and purpose of the Zoning By-law.</p>	<p>Yes. The requested variance is considered to maintain the general intent and purpose of the Zoning By-law.</p> <p>The subject lands are zoned Residential Multiple 1 Exception 117 (RM1-117) in accordance with Pelham Zoning By-law 1136 (1987), as amended. The RM1 zone permits a variety of residential uses including street and block townhouse dwellings.</p> <p>The intention of the rear yard setback requirement is to ensure adequate private amenity space for residential uses and to ensure land use compatibility with neighbouring uses. The parcel will maintain adequate rear and side yard amenity space. The reduced rear yard setback is not anticipated to have a significant visual impact.</p> <p>Staff are of the opinion that that intent and purpose of the zoning by-law is maintained.</p>
<p>4. The variance maintains the general intent and purpose of the Official Plan.</p>	<p>Yes. The requested variance is considered to maintain the general intent and purpose of the Official Plan.</p> <p>The surrounding neighbourhood is generally characterized by one-storey street townhouse dwellings. The Official Plan states that development</p>

Minor Variance Test	Explanation
	<p>and redevelopment shall maintain and enhance the character and stability of existing and well-established residential neighbourhoods with regards to scale and density.</p> <p>The subject land's use is within the permitted use of the Urban Living Area / Built Boundary designation. Townhouse dwellings are a permitted use in this designation.</p> <p>Staff are of the opinion that the requested variance is not considered to have significant impacts within the context of the Official Plan. The proposed sunroom is compatible with and generally in keeping with the low-density residential character of the neighbourhood.</p> <p>Staff are of the opinion that the reduced rear yard setback maintains the general intent and purpose of the Official Plan.</p>

Agency and Public Comments:

On October 4, 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.

The proposed minor variance application was circulated to Town Planning, Building and Public Works staff for pre-application review and comments prior to submission.

To date, the following comments have been received:

- Building Division
 - A building permit is required for the proposed rear enclosed sunroom.
- Public Works Department
 - Comprehensive lot grading and drainage plan is required.

Five (5) public comments were received at the time of writing this report and are summarized below:

- Dilio Lostracco
 - Opposes the variance; Concern with drainage in the area and associated flooding issues of the swale in the rear yard; concerned with precedent setting in the area.
- David Atkinson
 - Opposes the variance; concern with privacy issues of the reduced setback; concerns with drainage and associated flooding issues; raised

a clause included in a purchase and sale agreement restricting additions; concerned with precedent setting in the area; concerns related to a reduction in property values.

- Lauren and John Janssen
 - Opposes the variance; concerned with the visual impact on the streetscape; concerns with the reduction of greenspace; concerns with increased noise and light pollution; concerns with precedent setting in the area; concerns related to a reduction in property values; concerns that the variance is not minor as it is a reduction of 50%; raised a clause included in a purchase and sale agreement restricting additions.
- Donna Huxley and Mal Ireland
 - Opposes the variance; concerns with precedent setting in the area; concerns related to a reduction in property values; raised a clause included in a purchase and sale agreement restricting additions.
- Tove Bowman
 - No objection to the proposal.

Planning Staff Comments:

With regards to the public comments, staff note that the proposed sunroom addition occupies an area in the rear yard that is currently contains a raised deck that is used for outdoor dining and will result in only a minor loss of green space. A lot grading and drainage plan will be required as part of the building permit process for the proposed building addition which will require that the stormwater from the addition be managed on site. Public Works staff advises that they are not aware of drainage or flooding concerns on properties in this area. There is no impact on the streetscape as the addition is in the rear of the property and not visible from the street and the building height of the addition is less than the height of the dwelling. It is not anticipated the sunroom addition will result in noise or light pollution impacts over and above what is normal for a residential use which is not an adverse impact. With regards to concerns regarding a reduction in property values, typically when there is re-investment in a property there is a corresponding increase in property values in the area; there is no empirical evidence that such a small building addition would result in a reduction in property values of nearby properties. With regards to a clause in a former purchase and sale agreement that restricted building additions, this is a matter between that purchaser and that seller and this clause is not enforceable on subsequent property owners, further Town staff are not aware of similar such restrictions registered on title with the property that could be enforced by the Town.

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 Recommendation:

Planning staff recommend that minor variance file A14/2022P **be approved** subject to the following condition(s):

THAT the applicant:

- Apply for and receive a Building Permit for the proposed sunroom addition
- Submit a comprehensive lot grading and drainage plan demonstrating that the drainage neither relies, nor negatively impacts neighbouring properties, to the satisfaction of the Director of Public Works, or designate.

Prepared and Submitted by:

Andrew Edwards, BES
Planner

Recommended by:

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