



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

Tuesday, November 01, 2022

Minor Variance Application: A16-2022P

Municipal Address: 1053 Pelham Street, Pelham

Legal Description: Lot 177, Formerly Part of Thorold

Township now Pelham, Part 1 on Plan 59R-15938 (Part 2 on Sketch)

Roll number: 2732 030 019 05100

Nature and Extent of Relief/ Permission Applied for:

The subject parcel, shown as Part 2 on the attached sketch, is a parcel of land along Pelham Street, lying south of Homestead Boulevard, legally described above, and known locally as 1053 Pelham Street in the Town of Pelham.

The subject land is zoned Residential 1 (R1) in accordance with Pelham Zoning By-law 1136 (1987), as amended. Note that this application is being heard in conjunction with Consent File B12/2022P. The remnant parcel of the severance (Part 2) will have a deficient lot area and frontage upon completion of the severance. As such, a minor variance is required to recognize the reduced lot area and frontage.

- a. **Section 13.2(a) "Minimum Lot Area":** requesting a minimum lot area of 605 square metres, whereas 700 square metres is required; and,
- b. **Section 13.2(b) "Minimum Lot Frontage":** requesting a minimum lot frontage of 13.65 metres, whereas the 19 metres is required.

It is noted the sketch shows the lot area as 606.5 square metres and frontage as 13.715 metres. The requested variances are intended to provide minor flexibility in the event the final survey confirms either provision to be somewhat smaller than what is shown on the sketch.

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"). A discussion of the four tests is included below.

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 1.1.3.3 states municipalities shall identify appropriate locations and promote opportunities for intensifications where this can be accommodated taking into account existing building stock and the availability of suitable existing infrastructure and public service facilities.

The Niagara Region Official Plan prescribes an annual residential intensification rate of at least 15% for all lands within Pelham’s *Urban Settlement Areas*, this policy target is also reflected in the Pelham Official Plan. The proposed development will contribute to meeting this target.

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.

Infill development is an acceptable form of *intensification* so long as new development is compatible in nature, is compact, and avoids adverse impacts to provincial interest, public health, safety and the quality of the human environment. Planning staff are of the opinion the requested zoning relief is consistent with the PPS and promotes appropriate development standards that help facilitate compact form and *intensification*.

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. Section 2.2.1 of the Growth Plan directs growth to settlement areas that have a delineated built boundary, have existing municipal services, and can support the achievement of complete communities. The Growth Plan states municipalities will support the achievement of complete communities by planning to accommodate forecasted growth, planning to achievement the minimum intensification and density targets of the Plan, considering the range and mix of housing options and densities of existing housing stock, and planning diversify overall housing stock.

Planning staff are of the opinion the proposed minor 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. Policy 4.G.8.1 states *Built-Up Areas* will be the focus of residential intensification and redevelopment.

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.

The Niagara Region Official Plan prescribes an annual residential intensification rate of at least 15% for all lands within Pelham's Urban Settlement Areas, this policy target is also reflected in the Pelham 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.

The lands continue to be designated as Built-Up Area in the new Official Plan, however the intensification rates have changed from and the policy 2.2.2.5 now requires that across the Region 60% of all residential units occurring annually are to be in the Build-Up Areas and in Pelham, this translates into an annual intensification rate of 25% of new residential units are to be within the Built-Up Area.

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 A2.2.2 Growth & Settlement – states that it is a goal of this Plan to encourage intensification and redevelopment within the *Urban Area* specifically in proximity to the Downtown. The proposal is seen as an appropriate form of intensification in the Urban Area.

Policy A2.3.2 Urban Character – stated objectives of this Plan include:

- To respect the character of existing development and ensure that all applications for development are physically compatible with the character of the surrounding neighbourhood.
- To encourage the intensification and use of the lands within the downtown core of Fonthill and to make every effort to improve the economic health of the core by encouraging redevelopment and the broadest mix of compatible uses.
- To encourage the development of neighbourhoods which are compact, pedestrian friendly and provide a mix of housing types, community facilities, small-scale commercial centres and public open spaces.

Section B1.1 of the Official Plan provides the policy base of the Urban Living Area designation. Policy B1.1.1 recognizes the existing urban area of Fonthill and the role the Town will need to accommodate various forms of residential intensifications, where appropriate.

Policy E1.5 states that in addition to the *Planning Act's four tests* considered in determining whether to grant a minor variance, applicants should be prepared to demonstrate a need for the requested relief on the basis that the subject zoning provision is not warranted in a particular circumstance, causes undue hardship, or is otherwise impossible to comply with. The applicant provided a planning justification brief providing an analysis of the requested variances.

Although the *Planning Act*, and Provincial planning case law does not recognize the demonstration of 'need' or 'hardship' as a *fifth test* of a minor variance, the local Official Plan raises this matter.

Town Planning staff are of the opinion the proposed minor variance conforms to the local Official Plan as it helps enable appropriate redevelopment and *intensification* within an existing residential neighbourhood and does not conflict with any policies

subject to demonstration of appropriate urban design and fulfillment of the proposed conditions of approval.

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

The subject lands are zoned Residential 1 (R1) in accordance with Pelham Zoning By-law 1136 (1987), as amended.

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 variances are considered to be minor in nature.</p> <p>The proposed reduced lot area and lot frontage are minor in nature given the context of the surrounding area. The variances are considered minor in nature as adverse impacts are not anticipated from the requested variances. This is because the resulting built form is generally consistent with the existing neighbourhood from a land use, orientation and massing perspective and is considered an appropriately sensitive form of infill redevelopment. Similar lot frontages and lot areas are observed in the vicinity of the parcel.</p> <p>Staff note that any future dwelling will be required to meet other relevant provisions of the Zoning By-law including setbacks and lot coverage.</p> <p>Further, the Town recently adopted a new comprehensive zoning by-law that is currently under appeal. The lands are proposed to remain zoned Residential One (R1), however, the lot area variance would not be required if this by-law was in full force and effect. The reduction in lot frontage would still require a variance, however, it would not be as large as is currently contemplated.</p> <p>Staff are of the opinion that the proposed variances are 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 variances will allow for single detached residential dwellings in the low density R1 zone. The requested zoning relief promotes appropriate development standards that help facilitate compact form and <i>intensification</i>, as is promoted in Provincial and municipal legislation.</p> <p>Staff are of the opinion that the proposed minor variances are desirable for the development or use of the land.</p>
3. The variance maintains the general intent and purpose of the Zoning By-law.	<p>Yes. The requested variance is considered to maintain the general intent and purpose of the Zoning By-law.</p> <p>The intent of the minimum lot frontage provision is to provide adequate frontage to site a building and to provide access. The reduction in lot frontage is not anticipated to have a negative impact on the streetscape or ability to site a dwelling. Dwellings along Homestead Boulevard and Tanner Drive have similar lot frontages to what is proposed. The reduction in frontage will continue to allow for adequate setbacks for a single detached dwelling.</p> <p>The intent of the minimum lot area provision is to ensure lot areas are consistent with the overall character of the neighbour and to ensure a dwelling has sufficient area for building siting and setbacks.</p> <p>The variances seeking reductions of the minimum lot area and lot frontage provisions maintain the general intent of the Zoning By-law Plan as they will continue allowing for single detached residential dwellings in the low density R1 zone. The proposed lot area and lot frontage are still in keeping with the surrounding neighbourhood.</p> <p>Staff are of the opinion that that intent and purpose of the zoning by-law is maintained.</p>
4. The variance maintains the general intent and purpose of the Official Plan.	<p>Yes. The requested variance is considered to maintain the general intent and purpose of the Official Plan.</p> <p>The parcel is designated Urban Living Area, which permits single detached dwellings. Further, the proposed development represents an appropriate form of intensification on an oversized lot. The</p>

	<p>existing character of the surrounding neighbourhood is maintained.</p> <p>The variances to reduce the minimum lot area and lot frontage maintain the policy intent of the Official Plan because they will allow for intensification of an existing neighbourhood within the delineated built boundary, add to the housing supply, support existing infrastructure maintenance and make more efficient use of a large existing residential lot. The minor reduction in lot area and lot frontage will not negatively impact the character of the neighbourhood.</p> <p>Staff are of the opinion that the proposed variances maintain the general intent and purpose of the Official Plan.</p>
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Agency and Public Comments:

On October 5, 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
 - Part 1 requires a building permit for the proposed demolition/moved accessory structure.
 - Parts 2 & 3 require building permits for the proposed buildings.
- Public Works Department
 - Servicing plan for the lot will be required.
 - Please be advised that no sideyard walkways that impede sideyard swale shall be permitted.
 - Any future severance for part 1, entrance is permitted only on Pelham Street.
 - Street trees shall be planted in accordance with the Town's Tree Management Policy, S802-01.
 - The applicant obtains a Driveway Entrance and Culvert Permit from the Public Works department for the construction of all new or modification of existing driveways or entrances. Installation and/or modification of all entrances shall be completed in accordance with Town Standards.
- Niagara Region Planning & Development Services
 - The subject lands are identified Settlement Area under the Provincial Policy Statement (PPS), within the Delineated Built-Up Area in A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan)

and are designated Urban Area (Built-Up Area) in the Regional Official Plan (ROP).

- The ROP, PPS and Growth Plan together direct development to take place in urban areas to support intensified development where appropriate servicing and infrastructure exists. Both Regional and Provincial policy place an emphasis on intensification and infill to foster the development of complete communities that have a mix of diverse land uses and housing choices, improve social equity and quality of life, expand access to multiple forms of transportation, and provide spaces that are vibrant and resilient in their design. A full range of residential, commercial and industrial 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.
- Growth management policies state that until the Region completes the municipal comprehensive review, and it is approved and in effect, the annual minimum intensification target contained in the Regional Official Plan for the Delineated Built-Up Area (15%) will continue to apply. The proposal will contribute to Pelham's intensification target.
- The PPS and ROP provide direction for the conservation of significant cultural heritage and archaeological resources. Specifically, the PPS and ROP state that development (including the construction of buildings and structures requiring approval under the Planning Act) and site alteration are not permitted on lands containing archaeological resources or areas of archaeological potential, unless significant archaeological resources have been conserved.
- Based on a review of available aerial imagery and the Province's Criteria for Evaluating Archaeological Potential, the site exhibits a high potential for the discovery of archaeological resources since the subject lands are located within 300 metres of a registered archaeological site.
- Given that the Town of Pelham has Composite Archaeological Potential Mapping, Regional staff defer to the Town for requiring and/or scoping any archaeological studies for the proposed development.
- Should an assessment be required, Regional staff would look for the submission of a Stage 1-2 Archaeologic Assessment (and any subsequent assessments) and the associated acknowledgement letter(s) from the Ministry of Heritage, Sport, Tourism and Cultural Industries (MHSTCI) as a Condition of consent.
- Regional staff have reviewed the submitted materials and acknowledge that the proposed dwellings will be required to connect to the Regional Sanitary Main. As such, the applicant is required to apply for a connection permit and to provide the following to the Region:
 - Letter from the Town requesting the connection
 - Plan and Profile drawings of the laterals and connection
 - Connections need to be made at a manhole. If a manhole is not in close proximity, a new dog house manhole will need to be installed as part of the service. Both laterals can be made to the same manhole.

- Connection permit fee of \$1,250; if the services are applied for together, only one fee will be required
 - A condition for the required connection permit has been included in the Appendix.
- Niagara Region provides curbside waste and recycling collection for developments that meet the requirements of Niagara Region's Waste Collection Policy. The subject property is eligible to receive Regional curbside waste and recycling collection provided that the owner bring the waste and recycling to the curbside on the designated pick up day, and that the following limits are met:
 - Garbage: 2 bags/cans collected every-other-week;
 - Recycling: weekly blue/grey boxes or carts (unlimited);
 - Organics: weekly green bins or carts (unlimited).
 - Curbside Collection Only
- Based on the analysis and comments above, Regional staff offers no objection to the application, subject to the Conditions outlined in the Appendix.

Two (2) public comments have been received and are summarized as follows:

- David & Jan Wininger
 - Opposed to severing the adjacent land into 2 smaller lots for the purpose of construction of new homes. This will add congestion to the traffic in this area, especially Homestead Dr. We also object to the removal of the trees. Adding more houses in this small area will not enhance this immediate area aesthetically. We are opposed to changing the lot sizes for this purpose.
- Keith Lewis
 - Opposed to the severances; concerns with controlling/managing stormwater runoff and potential flooding impacts to neighbouring properties.

Planning Staff Comments:

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 note that the conditions requested by departments and agencies were recommended to be included as part of the corresponding consent approval

and are not needed to be duplicated for minor variance approval, save and except the required certification of consent applications B11/2022P and B12/2022P.

Planning Staff Recommendation:

Planning staff recommend that minor variance file A16/2022P **be approved** subject to the following condition(s):

THAT the applicant:

- That the approval of the minor variance A16/2022P is subject to the final certification of Consent Files B11/2022P and B12/2022P.

Prepared and Submitted by:

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Planner

Recommended by:

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