

Committee of Adjustment AGENDA

CofA 11/2022

November 1, 2022

4:00 pm

Town of Pelham Municipal Office - Council Chambers

20 Pelham Town Square, Fonthill

During the ongoing global pandemic, Novel Coronavirus COVID-19, the Town of Pelham Committee of Adjustment will convene meetings in compliance with Provincial directives. Attendance by all participants will be electronic. Public access to meetings will be provided via Livestream www.youtube.com/townofpelham/live and subsequent publication to the Town's website at www.pelham.ca.

Pages

1. **Attendance**
2. **Call to Order, Declaration of Quorum and Introduction of Committee and Staff**

- 2.1. **Land Recognition Statement**

We begin this meeting by acknowledging the land on which we gather is the traditional territory of the Haudenosaunee and Anishinaabe peoples, many of whom continue to live and work here today. This territory is covered by the Upper Canada Treaties and is within the land protected by the Dish With One Spoon Wampum agreement. Today this gathering place is home to many First Nations, Metis, and Inuit peoples and acknowledging reminds us that our great standard of living is directly related to the resources and friendship of Indigenous people.

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5. Hydro One
6. David and Jan Wininger
7. Keith Lewis

Pre-registered Members of the Public

1. Rose and Mark Iamonaco

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1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Niagara Region
5. Hydro One
6. David and Jan Wininger
7. Keith Lewis

Pre-registered Members of the Public

1. Rose and Mark Iamonaco

7. Minutes for Approval 117

July 5, 2022

8. Adjournment



**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

Memo

To: Sarah Leach, Deputy Clerk

CC: Jason Marr, Director of Public Works; Barb Wiens, Director of Planning and Development; Derek Young, Manager of Engineering; Taylor Boyle, Engineering Technologist; Lucas Smith, Engineering Technologist;

From: Gimuel Ledesma, Engineering Technologist

Date: October 19, 2022

File No.: A14/2022P

RE: Minor Variance – 14 Wellington Court

Town of Pelham Public Works Staff have reviewed the above noted application and supporting documentation to address the technical concerns regarding the submitted minor variance application. Application is made for relief, to construct an attached sunroom addition, from: **Section 16.3(g) “Minimum Rear Yard”** – to permit a minimum rear yard setback of 3.96m whereas the by-law requires 7.5m.

Public Works offer the following comments:

Public Works requests the following condition:

- Submit a comprehensive Lot Grading & Drainage Plan demonstrating that the drainage neither relies, nor negatively impacts neighboring properties, to the satisfaction of the Director of Public Works, or designate.

To: Sarah Leach

Cc: Andrew Edwards

From: Dave Christensen, Building Intake/Zoning Technician
Community Planning & Development

Date: October 11th, 2022

Subject: Building Comments on Applications to the Committee of Adjustment for
Consents/Minor Variances – November 1st, 2022 Hearing

Comment for Re: File A14/2022P – 14 Wellington Crt.

The building department offers the following comment,

- A building permit is required for the proposed rear enclosed sunroom.

Comment for Re: File A15/2022P & A16/2022P, B11/2022P & B12/2022P – 1035 Pelham St. Parts 2 & 3

The building department offers the following comment,

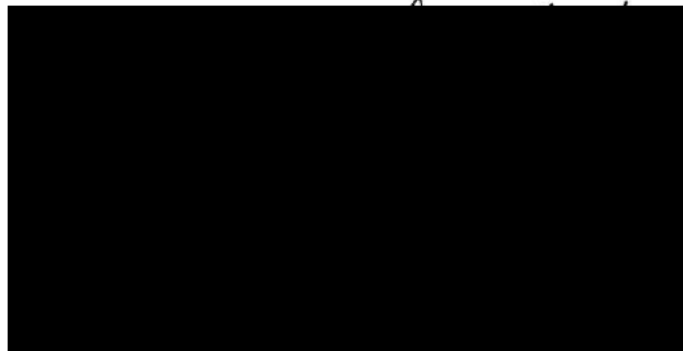
- Part 1 requires a building permit for the proposed demolition/moved accessory structure.
- Parts 2 & 3 require building permits for the proposed buildings.

RE: FILE # A-14/2022 P.

SUBJECT LANDS: 14 WELLINGTON CRT.
PELHAM.

I, JOVE BOWMAN, HAVE NO OBJECTION
TO THE APPLICANT'S PROPOSAL.

Jove Bowman



Notice of Objection
File # A14/2022P
Subject Lands: 14 Wellington Court, Pelham

I oppose the amendment to to permt a minimum rear yard setback of 7.5 m to 3.96m for the following reasons:

1. Water Drainage-There is a slight swale in the back yards to handle rain water. In the spring, the melting snow or a heavy rainfall causes the water to pool. Reducing the size of the swale will increase the chances of water overflowing in the basement window wells. The swale remains wet until late spring, early summer. This area has a water drainage issue and the amendment will only increase the problem. If the amendment is approved who will be responsible for improving the water drainage.

2.Precendent-if the amendent is approved how can anyone else on either Wellington Court or Milliner Place be prevented from adding an addition to their homes or increasing the decks to a 3.96m setback.

Dilio Lostracco
[Redacted]
[Redacted]
[Redacted]
[Redacted]

██████████
L0S 1E4

October, 18, 2022

Secretary Treasurer of the Committee of Adjustment
20 Pelham Town Square, P.O. Box 400
Font Hill, ON L0S 1E0
File Number: A14/2022P

To Whom It May Concern,

Further to your “Notice of Public Hearing,” we request that the variance requested for the construction of a sunroom at 24 Wellington Court be denied. We currently occupy ██████████.

There are a number of reasons for this request:

1. Milliner Place and Wellington Court are part of the townhouse complex Beckett Mills. The townhouses located on Milliner Place and Wellington Court back onto one another. The planning for this complex allows for limited space between townhouses although sufficient space to ensure privacy, especially as bedrooms back on to one another. At present, there are 24.7 feet between ██████████ Milliner Place and 14 Wellington Court. The requested variance would reduce this to 12.11 feet. While this change might technically be a minor variance, it constitutes a major infringement ██████████.
2. There are established limitations on what an owner might do to modify their townhouse. Each purchaser was required to acknowledge that certain restrictions applied to their property, specifically that “Absolutely no building erections, extensions or attachments of any type shall be permitted to any part of or extend beyond any part of the wall of the buildings save and except patios and/or decks to or at the rear wall of the buildings.” As someone who purchased the property from the original owner, it was our understanding that this restriction would continue to apply. Indeed this seems a reasonable expectation.
3. There is a currently a drainage issue between the properties, which becomes especially obvious during rainstorms. With additional eaves troughs and down spouts, the proposed addition would significantly increase drainage.
4. The Beckett Mills development was designed to ensure continuity of planning that enhances its attractiveness and provides owners with predictability. The proposed addition contradicts this understanding. Moreover, the approval of one exception sets a precedent for others and a potential change to the overall plan for the complex. The units comprising Beckett Mills were not designed for this kind of addition, and there is considerable likelihood that it would negatively impact property values.

Every homeowner is entitled to improve their home, but it needs to be understood that a townhouse complex is not a stand-alone property. It is simply not acceptable that the rules should be changed when it will have a significant impact on other residents who have the expectation that their properties will not be negatively impacted.

Sincerely,

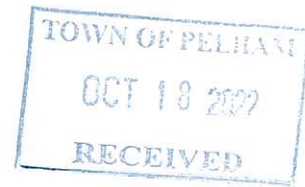
A handwritten signature in cursive script that reads "David W. Atkinson".

David W. Atkinson



October 17, 2022

Secretary Treasurer of the Committee of Adjustment
20 Pelham Town Square, PO Box 400
Fonthill, ON L0S 1E0



File # A14/2022P

We are writing in reference to the request for a minor variance for 14 Wellington Court, Pelham. I would ask that this variance be declined.

Currently there is 24.72 feet between the back of our property and 14 Wellington. This variance would cut that in half to 12.11 feet from the back of our house to the back of this structure. That is not a minor variance to us, it's a drastic difference and is simply not enough space between structures. This structure would butt right up against our back yard.

Wellington Court and Milliner Place are part of a small townhouse complex called Beckett Mills. When we purchased our home on Milliner (located beside Wellington), we were provided with the attached Schedule "G". In that schedule, we as the purchaser had to acknowledge that the property being purchased was subject to Restrictions registered on title with the property and included the following:

"Absolutely no buildings, erections, additions, extensions or attachments of any type or description shall be permitted to any part of or extend beyond any part of the wall of the buildings; save and except that patios and/or decks shall be permitted to or at the rear wall of the buildings."

As this structure is larger than 10 by 10 and will have a roof and eaves troughs, down spouts will be needed, and that extra flow of water could negatively impact our yard. Further, the variance shows that the structure would not be heated, but on October 14th, the homeowner shared with us that it would be heated and air-conditioned. We wonder if there have been changes submitted to this original variance or whether the variance submitted has outdated information. It is difficult for us to make a decision with differing information.

Lastly, a structure of this size could impact the value of our property as it sets a precedent for other similar structures. These properties were not meant to house these extra structures.

While we are not in opposition to any homeowner looking to improve their home, we feel that this structure is an infringement on our property and ask that it not be approved.

Sincerely,

Handwritten signature of Donna Huxley in black ink.

Donna Huxley and Mal Ireland

Handwritten signature of Mal Ireland in black ink.



Schedule 'G'

Beckett Mills Restrictions

Purchaser acknowledges and agrees that the property being purchased is subject to Restrictions registered on title with the property and summarized as follows. Should there be any conflict between the summary and the registered restrictions, the registered restrictions shall govern.

- No detached garage or other similar structure shall be erected on any lot, however, a detached storage shed or similar structure not larger than 10 feet by 10 feet on a concrete slab shall be permitted on any lot.
- Absolutely no buildings, erections, additions, extensions or attachments of any type or description shall be permitted to any part of or extend beyond any part of the wall of the buildings; save and except that patios and/or decks shall be permitted to or at the rear wall of the buildings.
- Any fence installed in or on a lot shall:
 - (a) conform with the zoning by-laws of the Town of Pelham;
 - (b) be constructed of material of similar design, size and construction and of similar quality to that found on the project at its inception;
 - (c) be well and properly painted or maintained in a colour or finish which is the same as the original colour or finish of the fencing material;
 - (d) not impede or restrict the right of way given to any of the owners of the units who pursuant to the provisions of their grants have rights of way for service access to the rear of their lots.
- No aerial, T.V. antenna, T.V. tower, satellite dish or other similar structure, greater than two (2) feet in diameter shall be erected on the exterior of the building(s) or on the lots. Any antenna or satellite dish two (2) feet in diameter or less shall be permitted only in a location rendering it not visible from the front of the cluster or group of housing units.
- No clothes lines of any description shall be erected on the lands.
- No permanent pool, inground or above ground, shall be installed in or on the lands.
- No changes shall be made to the exterior colour of brick, stucco, roof lines, roof treatments, exterior wall treatment, or exterior wall colours without the express consent, in writing, of the Grantor, or its successors or assigns.
- No sign, or advertising matter of any kind, except the ordinary signs offering the lands or buildings thereon for sale or rent, shall be placed on the lands, or on the buildings, fences, or trees on the lands.
- No motor vehicles (other than private passenger vehicles), vans, trailers, boats, snowmobiles, heavy equipment or anything similar thereto shall be parked, placed or stored on the lands unless concealed in a wholly enclosed garage.
- If the majority of the owners of the units in any cluster or groups of units agree, they may form an association for the specific purpose of:
 - (a) maintaining the grounds, ie grass and shrubs maintenance, weed control, leaf raking, snow and ice removal.
 - (b) maintain the exterior of the units in their cluster, ie exterior wall surfaces, roofs, soffits, eavestroughs, windows, doors, and painted surfaces, and
 - (c) such other matters as the owners of the units may unanimously agree to.
- As it relates to items in (a) and (b) above, the agreement by the majority of the unit holders in any one cluster shall be binding upon all of the unit holders in that cluster. Each unit holder shall contribute to the costs thereof in proportion to the land size (a) or building area (b) of the unit.

Sarah Leach

To: john janssen; clerks pelham
Subject: RE: Committee of Adjustments File Number: A14/2022P

From: john janssen [REDACTED]
Sent: Wednesday, October 19, 2022 7:08 AM
To: clerks pelham <clerks@pelham.ca>
Subject: Committee of Adjustments File Number: A14/2022P

18-Oct-2022

Secretary Treasurer
Committee of Adjustments
Town of Pelham
20 Pelham Town Square, P.O. Box 400
Fonthill, ON, L0S 1E0

Re: File Number: A14/2022P
14 Wellington Court, Pelham, ON

Dear Committee Members,

I am writing you pursuant to your request for written comments contained in the Notice of Public Hearing for an application for minor variance concerning an addition being built at 14 Wellington Court in the Town of Pelham, Ontario. My wife and I are opposed to the application for variance. There are several reasons we oppose the application and I have summarized them below;

1. The area in question concerns a block of townhomes built in the late 1990's. The development was purposefully built in a manner that achieves a level of consistency from unit to unit. Allowing an extension of the size proposed will have a detrimental affect on the aesthetic of the townhome development.
2. The townhome development already consists of small yard spaces and allowing this proposed addition will further erode the available green space within the development. Eliminating green space is counterintuitive to the townhome development which already puts units in a compact living environment by nature of its design.
3. The proposed variance will expose rear yard neighbours to an increase in both noise and light pollution. Extending the dwelling unit to within 13 feet of the rear property line reduces the space necessary to buffer neighbours from increased noise and light from the unit.
4. If this variance is allowed a precedent will be set which can be used by future homeowners to add additions of such size to their unit whose net affect will be to eliminate a significant amount of green space within the development. This is an unacceptable proposition for owners with units in the development.
5. if such a precedent is set, property values can be negatively affected. The wall of the building will be too close to the rear property line reducing the marketability of units. This will be compounded should additional units make application for and receive approval to proceed with such additions.

Furthermore, at the time when my wife and I purchased our unit our lawyer made us aware of restrictions that were attached to the title for the property. Our understanding is that the restrictions include, but are not limited to "Absolutely no buildings, erections, additions, extensions or attachments of any type or description shall be permitted to any part of or extend beyond any part of the wall of the buildings; save and except that patios and/or decks shall be permitted to or at the rear wall of the buildings."

Lastly, a reduction of the 25ft rear yard requirement contained in Pelham Zoning By-Law 1136(1987) by almost 50% is inappropriate for this townhome development. Frankly, while I am sure it likely meets the Town's definition of a minor variance, it does not appear to be minor at all to us.

Sincerely,

Lauren and John Janssen

A black rectangular redaction box covering the signature of Lauren and John Janssen.



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

Tuesday, November 01, 2022

Minor Variance Application: A15-2022P

Municipal Address: 1053 Pelham Street

Legal Description: Lot 177, Formerly Part of Thorold

Township now Pelham, Part 1 on Plan 59R-15938

Roll number: 2732 030 019 05100

Nature and Extent of Relief/ Permission Applied for:

The subject parcel, shown as Part 3 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 B11/2022P. The remnant parcel of the severance (Part 3) 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 607 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 607.6 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 Winger
 - 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 A15/2022P **be approved** subject to the following condition(s):

THAT the applicant:

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

Prepared and Submitted by:

Andrew Edwards, BES
Planner

Recommended by:

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

Memo

To: Sarah Leach, Deputy Clerk

CC: Jason Marr, Director of Public Works; Barb Wiens, Director of Planning and Development; Derek Young, Manager of Engineering; Taylor Boyle, Engineering Technologist; Lucas Smith, Engineering Technologist;

From: Gimuel Ledesma, Engineering Technologist

Date: October 19, 2022

File No.: A15/2022P

RE: Minor Variance – 1053 Pelham Street Part 3

Town of Pelham Public Works Staff have reviewed the above noted application and supporting documentation to address the technical concerns regarding the submitted minor variance application. Application is made for relief, to rectify zoning deficiencies as a result of a consent application B11/2022P, from:

Section 13.2(a) “Minimum Lot Area” – to permit a minimum lot area of 607 sm whereas the by-law requires a minimum lot area of 700 sm; and

Section 13.2(b) “Minimum Lot Frontage” – to permit a minimum lot frontage of 13.65m whereas the by-law requires 19m.

This application is being considered concurrently with Consent Files B11/2022P and B12/2022P and Minor Variance File A16/2022P.

Public Works offer the following comments:

- 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

Public Works offer the following conditions:

- That the applicant confirm that no existing utilities currently cross the proposed new property line. Should any services cross this new property line, the applicant will be responsible for costs associated with their relocation and/or removal.
- Town of Pelham Public Works Staff require that the applicant submit an overall lot grading and drainage plan to demonstrate that the drainage does not negatively impact nor rely on neighboring properties.
- Each lot shall be serviced individually
- That the applicant confirm that no existing utilities currently cross the proposed new property line. Should any services cross this new property line, the applicant will be responsible for costs associated with their relocation and/or removal.
- Tree preservation plan will be required (include trees on lot grading plan)
- 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.

To: Sarah Leach

Cc: Andrew Edwards

From: Dave Christensen, Building Intake/Zoning Technician
Community Planning & Development

Date: October 11th, 2022

Subject: Building Comments on Applications to the Committee of Adjustment for
Consents/Minor Variances – November 1st, 2022 Hearing

Comment for Re: File A14/2022P – 14 Wellington Crt.

The building department offers the following comment,

- A building permit is required for the proposed rear enclosed sunroom.

Comment for Re: File A15/2022P & A16/2022P, B11/2022P & B12/2022P – 1035 Pelham St. Parts 2 & 3

The building department offers the following comment,

- Part 1 requires a building permit for the proposed demolition/moved accessory structure.
- Parts 2 & 3 require building permits for the proposed buildings.

Sarah Leach

To: Holly Willford; Keith Lewis
Cc: Andrew Edwards
Subject: RE: Notice of Public Hearing File B11/2022P

From: Keith Lewis [REDACTED]
Sent: Friday, October 14, 2022 10:27 AM
To: Holly Willford <HWillford@pelham.ca>
Subject: Notice of Public Hearing File B11/2022P

Notice of Public Hearing
File Number B11/2022P
Subject Lands 1053 Pelham Street, Pelham
Lot 177

I am writing with regards to 1053 Pelham Street, Lot 177. Please know that I have concerns with the proposal to build additional properties as I have zero reassurance that the City, nor owner that is planning to build the additional properties with intent on controlling and/or managing the water runoff for the reasons summarized below.

I am the owner of [REDACTED], and have made numerous complaints to the city, specifically Derek Young (Manager of Engineering) with regards to water drainage and runoff from the recently built houses on Homestead, (built by [REDACTED]) which has led to water draining onto my property causing flooding in my basement and damage to my property.

Brief Summary of Events

After calling the City of Pelham with regards to flooding, I was put in contact Derek Young (Manager of Engineering). I explained to Derek Young, that my family had experienced a basement flood for which I believed stemmed from the improper management of water from the recently built houses located on Homestead. I told him that I had recorded video that illustrated a large amount of water flowing through our fence onto our property from houses located on Homestead and that the owner of [REDACTED] had also indicated concerns to the builder ([REDACTED]) that the storm drain located on the backyard of the property was blocked, preventing water runoff from entering the storm drain system. I also explained to Derek Young that our home was equipped with a sump pit with a primary pump and we had installed a secondary backup pump. (which we installed after taking ownership, as we were informed by neighbours that power outages were frequent for the area).

I also explained to Derek Young that I had other concerns with respect to an old concrete pool that was no longer being maintained and had a known leak by the owner located at [REDACTED]. I explained that I informed the property owner of my concerns that I believed the pool leak was contributing to the ground water problem / flooding basement condition. Albeit, the owner made attempts to fix the leak, however the pool is not maintained and the pool continues to leak to this day. Additionally, the property was listed for sale this summer and during the listing period the owner filled the pool several times knowing that the pool was leaking.

For these reasons and [REDACTED], I was forced to hire a basement leak contractor to install an interior weeping system with a secondary sump pit and back up pump to control the existing water problem at a cost of approx. \$18,000. To date both pumps run simultaneously during wet weather and my basement has remained dry, however I am very concerned that additional housing on lot 177 will increase the water runoff for which I will not be able to control / manage.

I have included the email threads below sent to Derek Young to provide you with some additional information with regards to the water damage to my property.

Feel free to contact me at any time to discuss this communication.

Keith Lewis
[REDACTED]
[REDACTED]
[REDACTED]

From: Keith Lewis [REDACTED]
Sent: September 15, 2021 7:12 PM
To: dyoung@pelham.ca <dyoung@pelham.ca>; [REDACTED]
Subject: Fwd: [REDACTED] Grading Issue

To Derrick Young
Manager of Engineering
Town of Pelham

As per our conversation on the phone yesterday, I am awaiting feedback on the lot grading plans based on my complaint filed on Aug 3rd regarding water entering our property from adjacent properties. Please see attached PDF for pictures from excessive water penetration entering our basement at both the sump pit and hydrostatic water along all perimeter walls at floor.

Keith Lewis
[REDACTED]
[REDACTED]

From: Keith Lewis [REDACTED]
Sent: August 23, 2021 8:20 AM
To: dyoung@pelham.ca <dyoung@pelham.ca>
Subject: Fw: [REDACTED]

Derrick,

Can you please let me a date when you will have information regarding the water runoff complaint communicated on the phone / emailed with you on Aug 3rd. As discussed, I am concerned with the excessive water entering our yard from the houses around us which has caused our basement to flood on 3 occasions (July 8, July 22 and August 1st). Unfortunately, not only have we had damage occur to our basement and belongings in the basement, we have issues with our pool liner identified by the pool company as a result of high-water levels causing the pool liner to float and crease. I have contacted the pool company for a quotation for remedy and a basement waterproofing company for quote. Please find the updates regarding [REDACTED] I will keep you updated on any additional information I may have.

Update: Aug 23th 8 Homestead

[REDACTED] excavation returned this morning at 7:00am to scope the main storm drain again at [REDACTED]. Speaking with one of the crew members this morning they stated that they will need to repair the main storm drain and have brought a large excavator, however after a conversation with the home owner at [REDACTED] company left. (at this point I am unaware of the conversation)

Update: Aug 20th

I spoke with the neighbour directly behind us at [REDACTED] yesterday Aug 20th at 5pm, she stated that the city of Pelham has been to her property twice to scope the storm drain (initial scope on August 4th), but due to extreme blockage was not able to complete scope. She is still awaiting feedback from the town based on the second visit.

The home builder, [REDACTED], sent the company that installed the storm drains [REDACTED] to visit the home on Aug 20th (yesterday), to sink hole at side of house as well as the main storm drain installed. The company crew informed [REDACTED] that installed the storm drain is likely the result of settlement and the suspected the pipe was damaged. Company also tried to scope storm drain, but was unsuccessful due to blockage. They told the home owner that they were going to flush the pipe and then attempt to scope again. Results were not shared with the home owner, she has reached out to the home builder [REDACTED] for the results.

If you could please reply to this email with any information regarding your investigation with regards to the lot grading for the houses identified, it would be greatly appreciated as we need to correct this issue as soon as possible.

Thanks Again
Keith Lewis
[REDACTED]

From: Keith Lewis [REDACTED]
Sent: August 3, 2021 10:26 AM
To: dyoung@pelham.ca <dyoung@pelham.ca>
Subject: Fw: [REDACTED]

Hello Derrick, pleasure speaking with you today

Description of Issue - water entering out property from adjacent properties, most recently July 8th, 22nd and Aug 1st. I do have video footage of Aug 1st if you would like to review.

These are the properties that we have seen water enter our yard

(North) [REDACTED]
storm drain in back yard, but recent grading is not providing a natural pathway for water (apparently the city is inspecting sink hole beside house for possible storm drain pipe collapse - according to neighbour)

[REDACTED]
recent landscaping with concreted patio, downspout directed under concrete patio via corrugated o-pipe close to fence, discharge of water enters our property

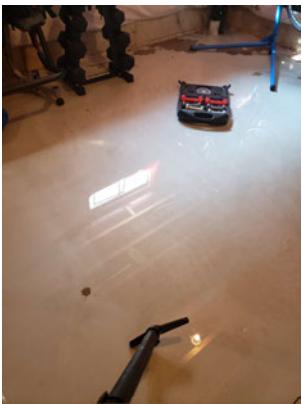
Both neighbours are aware of issue.

Thanks

Keith Lewis
[REDACTED]



- [REDACTED]
- Pictures are from last flood only Sept 13th and Sept 14th
- basement flooded on 4 occasions (July 8, July 22 and August 1st and Sept 13th -14th)
- August 3, 2021 10:26 AM contacted Derek Young - Manager of Engineering by phone and email - Derrick to pull lot grading plans to assess water run off – waiting for assessment
- Contacted Derrick by email on Aug 23rd for update on lot grading assessment, also provided details of investigation for sink hole and storm drain at [REDACTED] – awaiting reply
- Contacted Town of Pelham – Spoke to Derrick, let him know that we are still having water flooding condition – Derrick stated he was waiting on information from [REDACTED], home builder for [REDACTED] regarding storm drain etc. – awaiting reply







**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.

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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:

Andrew Edwards, BES
Planner

Recommended by:

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

Memo

To: Sarah Leach, Deputy Clerk

CC: Jason Marr, Director of Public Works; Barb Wiens, Director of Planning and Development; Derek Young, Manager of Engineering; Taylor Boyle, Engineering Technologist; Lucas Smith, Engineering Technologist;

From: Gimuel Ledesma, Engineering Technologist

Date: October 19, 2022

File No.: A16/2022P

RE: Minor Variance – 1053 Pelham Street Part 2

Town of Pelham Public Works Staff have reviewed the above noted application and supporting documentation to address the technical concerns regarding the submitted minor variance application. Application is made for relief, to rectify zoning deficiencies as a result of a consent application B12/2022P, from:

Section 13.2(a) “Minimum Lot Area” – to permit a minimum lot area of 605sm whereas the by-law requires a minimum lot area of 700sm; and

Section 13.2(b) “Minimum Lot Frontage” – to permit a minimum lot frontage of 13.65m whereas the by-law requires 19m.

This application is being considered concurrently with Consent Files B11/2022P and B12/2022P and Minor Variance File A15/2022P.

Public Works offer the following comments:

- That the applicant confirm that no existing utilities currently cross the proposed new property line. Should any services cross this new property line, the applicant will be responsible for costs associated with their relocation and/or removal.
- 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

Public Works offer the following conditions:

- Town of Pelham Public Works Staff require that the applicant submit an overall lot grading and drainage plan to demonstrate that the drainage does not negatively impact nor rely on neighboring properties.
- Each lot shall be serviced individually
- Tree preservation plan will be required (include trees on lot grading plan)
- 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.

To: Sarah Leach

Cc: Andrew Edwards

From: Dave Christensen, Building Intake/Zoning Technician
Community Planning & Development

Date: October 11th, 2022

Subject: Building Comments on Applications to the Committee of Adjustment for
Consents/Minor Variances – November 1st, 2022 Hearing

Comment for Re: File A14/2022P – 14 Wellington Crt.

The building department offers the following comment,

- A building permit is required for the proposed rear enclosed sunroom.

Comment for Re: File A15/2022P & A16/2022P, B11/2022P & B12/2022P – 1035 Pelham St. Parts 2 & 3

The building department offers the following comment,

- Part 1 requires a building permit for the proposed demolition/moved accessory structure.
- Parts 2 & 3 require building permits for the proposed buildings.

Sarah Leach

To: Holly Willford; Keith Lewis
Cc: Andrew Edwards
Subject: RE: Notice of Public Hearing File B11/2022P

From: Keith Lewis [REDACTED]
Sent: Friday, October 14, 2022 10:27 AM
To: Holly Willford <HWillford@pelham.ca>
Subject: Notice of Public Hearing File B11/2022P

Notice of Public Hearing
File Number B11/2022P
Subject Lands 1053 Pelham Street, Pelham
Lot 177

I am writing with regards to 1053 Pelham Street, Lot 177. Please know that I have concerns with the proposal to build additional properties as I have zero reassurance that the City, nor owner that is planning to build the additional properties with intent on controlling and/or managing the water runoff for the reasons summarized below.

I am the owner of [REDACTED], and have made numerous complaints to the city, specifically Derek Young (Manager of Engineering) with regards to water drainage and runoff from the recently built houses on Homestead, (built by [REDACTED]) which has led to water draining onto my property causing flooding in my basement and damage to my property.

Brief Summary of Events

After calling the City of Pelham with regards to flooding, I was put in contact Derek Young (Manager of Engineering). I explained to Derek Young, that my family had experienced a basement flood for which I believed stemmed from the improper management of water from the recently built houses located on Homestead. I told him that I had recorded video that illustrated a large amount of water flowing through our fence onto our property from houses located on Homestead and that the owner of [REDACTED] had also indicated concerns to the builder ([REDACTED]) that the storm drain located on the backyard of the property was blocked, preventing water runoff from entering the storm drain system. I also explained to Derek Young that our home was equipped with a sump pit with a primary pump and we had installed a secondary backup pump. (which we installed after taking ownership, as we were informed by neighbours that power outages were frequent for the area).

I also explained to Derek Young that I had other concerns with respect to an old concrete pool that was no longer being maintained and had a known leak by the owner located at [REDACTED]. I explained that I informed the property owner of my concerns that I believed the pool leak was contributing to the ground water problem / flooding basement condition. Albeit, the owner made attempts to fix the leak, however the pool is not maintained and the pool continues to leak to this day. Additionally, the property was listed for sale this summer and during the listing period the owner filled the pool several times knowing that the pool was leaking.

For these reasons and [REDACTED], I was forced to hire a basement leak contractor to install an interior weeping system with a secondary sump pit and back up pump to control the existing water problem at a cost of approx. \$18,000. To date both pumps run simultaneously during wet weather and my basement has remained dry, however I am very concerned that additional housing on lot 177 will increase the water runoff for which I will not be able to control / manage.

I have included the email threads below sent to Derek Young to provide you with some additional information with regards to the water damage to my property.

Feel free to contact me at any time to discuss this communication.

Keith Lewis
[REDACTED]
[REDACTED]
[REDACTED]

From: Keith Lewis [REDACTED]
Sent: September 15, 2021 7:12 PM
To: dyoung@pelham.ca <dyoung@pelham.ca>; [REDACTED]
Subject: Fwd: [REDACTED] Grading Issue

To Derrick Young
Manager of Engineering
Town of Pelham

As per our conversation on the phone yesterday, I am awaiting feedback on the lot grading plans based on my complaint filed on Aug 3rd regarding water entering our property from adjacent properties. Please see attached PDF for pictures from excessive water penetration entering our basement at both the sump pit and hydrostatic water along all perimeter walls at floor.

Keith Lewis
[REDACTED]
[REDACTED]

From: Keith Lewis [REDACTED]
Sent: August 23, 2021 8:20 AM
To: dyoung@pelham.ca <dyoung@pelham.ca>
Subject: Fw: [REDACTED]

Derrick,

Can you please let me a date when you will have information regarding the water runoff complaint communicated on the phone / emailed with you on Aug 3rd. As discussed, I am concerned with the excessive water entering our yard from the houses around us which has caused our basement to flood on 3 occasions (July 8, July 22 and August 1st). Unfortunately, not only have we had damage occur to our basement and belongings in the basement, we have issues with our pool liner identified by the pool company as a result of high-water levels causing the pool liner to float and crease. I have contacted the pool company for a quotation for remedy and a basement waterproofing company for quote. Please find the updates regarding [REDACTED] I will keep you updated on any additional information I may have.

Update: Aug 23th 8 Homestead

[REDACTED] excavation returned this morning at 7:00am to scope the main storm drain again at [REDACTED]. Speaking with one of the crew members this morning they stated that they will need to repair the main storm drain and have brought a large excavator, however after a conversation with the home owner at [REDACTED] company left. (at this point I am unaware of the conversation)

Update: Aug 20th

I spoke with the neighbour directly behind us at [REDACTED] yesterday Aug 20th at 5pm, she stated that the city of Pelham has been to her property twice to scope the storm drain (initial scope on August 4th), but due to extreme blockage was not able to complete scope. She is still awaiting feedback from the town based on the second visit.

The home builder, [REDACTED], sent the company that installed the storm drains [REDACTED] to visit the home on Aug 20th (yesterday), to sink hole at side of house as well as the main storm drain installed. The company crew informed [REDACTED] that installed the storm drain is likely the result of settlement and the suspected the pipe was damaged. Company also tried to scope storm drain, but was unsuccessful due to blockage. They told the home owner that they were going to flush the pipe and then attempt to scope again. Results were not shared with the home owner, she has reached out to the home builder [REDACTED] for the results.

If you could please reply to this email with any information regarding your investigation with regards to the lot grading for the houses identified, it would be greatly appreciated as we need to correct this issue as soon as possible.

Thanks Again
Keith Lewis
[REDACTED]

From: Keith Lewis [REDACTED]
Sent: August 3, 2021 10:26 AM
To: dyoung@pelham.ca <dyoung@pelham.ca>
Subject: Fw: [REDACTED]

Hello Derrick, pleasure speaking with you today

Description of Issue - water entering out property from adjacent properties, most recently July 8th, 22nd and Aug 1st. I do have video footage of Aug 1st if you would like to review.

These are the properties that we have seen water enter our yard

(North) [REDACTED]
storm drain in back yard, but recent grading is not providing a natural pathway for water (apparently the city is inspecting sink hole beside house for possible storm drain pipe collapse - according to neighbour)

[REDACTED]
recent landscaping with concreted patio, downspout directed under concrete patio via corrugated o-pipe close to fence, discharge of water enters our property

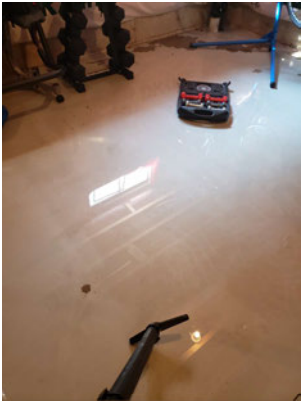
Both neighbours are aware of issue.

Thanks

Keith Lewis
[REDACTED]



- [REDACTED]
- Pictures are from last flood only Sept 13th and Sept 14th
- basement flooded on 4 occasions (July 8, July 22 and August 1st and Sept 13th -14th)
- August 3, 2021 10:26 AM contacted Derek Young - Manager of Engineering by phone and email - Derrick to pull lot grading plans to assess water run off – waiting for assessment
- Contacted Derrick by email on Aug 23rd for update on lot grading assessment, also provided details of investigation for sink hole and storm drain at [REDACTED] – awaiting reply
- Contacted Town of Pelham – Spoke to Derrick, let him know that we are still having water flooding condition – Derrick stated he was waiting on information from [REDACTED], home builder for [REDACTED] regarding storm drain etc. – awaiting reply







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

Tuesday, November 01, 2022

Consent Application: B11-2022P

Municipal Address: 1053 Pelham Street
Legal Description: Lot 177, Formerly Part of Thorold
Township now Pelham, Part 1 on Plan 59R-15938
Roll number: 2732 030 019 05100

Location of Lands and Purpose of Application:

The subject parcel, shown as Part 3 on the attached sketch, is a parcel of land along Pelham Street, lying south of Homestead Boulevard, legally described above, in the Town of Pelham.

Application is made for consent to partial discharge of mortgage and consent to convey 607.6 square metres of land (Part 3) for future residential purposes (single detached dwelling). Part 1 is to be retained for continued residential use. The existing single detached dwelling is to be retained.

Note this application is being held in conjunction with application for consent B12-2022P, and minor variance applications A15-2022P and A16-2022P.

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;
 - See PSS and Growth Plan analysis in sections below.
- b) Whether the proposed subdivision is premature or in the public interest;
 - The application is not considered premature and is able to uphold public interest as it is within the Urban Area Boundary and is seen as an appropriate form of gentle intensification.
- c) Whether the plan conforms to the Official Plan and adjacent plans of subdivisions, if any;
 - See Official Plan discussion below.

- d) The suitability of the land for such purposes;
 - The lands and surrounding neighbourhood are predominately low density residential dwellings. The proposed consent would facilitate the construction of an additional single detached dwelling on the proposed lot.
- f) The dimensions and shapes of the proposed lots;
 - The proposed lot will have comparable dimensions and shape to the surrounding neighbourhood and will be able to comfortably site a new single detached dwelling. It is noted minor variances are required for lot frontage and lot area.
- h) Conservation of natural resources and flood control;
 - No natural resources or flood concerns have been identified. A lot grading and drainage plan is a requirement.
- i) The adequacy of utilities and municipal services;
 - The retained parcel is connected to municipal infrastructure and has access to the full range of public services. Utilities and municipal services are available to service the severed parcel.
- j) The adequacy of school sites;
 - Available nearby. School Boards did not comment on application.

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 application for consent seeks to partial discharge of mortgage and consent to convey 607.6 square metres of land (Part 3) for future residential development of a single detached dwelling.

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 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.

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.

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*.

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. A stage 1-2 archaeological assessment and Ministry clearance letter will be a condition of approval.

Planning staff are of the opinion the requested application for consent is consistent with the PPS.

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)

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.

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.

The additional residential lot will help the Town to meet or exceed its *delineated built boundary* intensification targets. The proposed lot will help contribute towards the municipal property tax base which helps financially support the maintenance of linear infrastructure and *public service facilities*. The existing water and sanitary sewer mains already extend along the frontage of the subject lands but would be better utilized with additional building connections.

Planning staff are of the opinion the proposed application for consent conforms with 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).'

Policy 4.G.6.2 indicates 'Urban Areas' will be the focus for accommodating the Region's growth and development.

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.

Niagara Region Official Plan (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, 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 our natural heritage features. The local Official Plan designates the subject land as 'Urban Living Area/Built Boundary' on Schedule 'A1.'

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.

Policy A2.5.2 Infrastructure – stated objectives of this Plan include maintaining existing infrastructure in a manner that is cost effective and contributes to the quality of life of citizens.

Policy B1.1.3 states that in considering residential intensification proposals, the following criteria are applicable:

- a) Schedules A1 and A2 to this Plan identify a number of areas that may be good candidates for residential intensification. This does not preclude consideration for other sites in the Urban Living Area designation provided these sites abut arterial or collector roads or are located on a local road on a site that is no further than 100 metres from an intersection with an arterial or collector road;
 - ✓ The Subject Lands have frontage along Pelham Street which is identified as an Arterial Road.
- b) Intensification and redevelopment proposals are encouraged to achieve a unit density and housing type that is in keeping with the character of the density of the neighbourhood where it is proposed. Within the identified intensification areas identified on Schedules A1 and A2 the implementing Zoning By-law may establish minimum and maximum densities of between 10 and 25 units per hectare;
 - ✓ The proposed density is approximately 16.5 units per hectare.
- c) Residential intensification and redevelopment proposals located on lands which abut local roads shall maintain the unit density and unit type of the surrounding neighbourhood, but may through a Zoning By-law Amendment, increase the unit density by up to 25% of the existing gross density of lands located within 300 metres of the site, provided the resultant development will be characterized by quality design and landscaping, suitable building setbacks, and further that parking areas and traffic movements will not negatively impact the surrounding neighbourhood from the perspectives of safety or neighbourhood character;

- ✓ Not applicable as the proposal abuts an arterial road and not a local road, therefore this policy does not apply to this proposal.
- d) Notwithstanding items (b) and (c), the creation of new freehold or vacant condominium infill lots through the consent process, for ground-oriented detached dwellings, may be permitted provided the proposed lot and unit type is similar to and compatible with the established character of the street or neighbourhood where it is proposed. The Zoning By-law shall establish minimum lot area and frontages and minimum and/or maximum densities which are considered appropriate within the Urban Living Area designation;
 - ✓ The proposed use is similar to the surrounding neighbourhood, being mostly comprised of single detached dwellings. The proposed dwellings will front and face Pelham Street, consistent with the other residential uses on the east side of Pelham Street.
- e) The creation of accessory apartments and in-law suites within residential neighbourhoods is considered to be an appropriate form of residential intensification. The establishment of accessory apartments shall occur in accordance with Policy B1.1.4 and Council may reduce the application fee for such amendments under the Town's Tariff of Fees By-law;
 - ✓ Second dwelling units are permitted in single detached dwellings subject to meeting the zoning by-law requirements for such uses.
- f) The provision of affordable housing in intensification areas will be encouraged; and,
 - ✓ The new lots will contribute to the housing stock across the Town.
- g) The Town will consider innovations for responsive processing of applications and amendments in the future including tools such as Conditional Zoning Amendments implementing a Development Permit system and the streamlining of processing concurrent development applications.
 - ✓ Not applicable.

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;
 - ✓ Access will be provided from Pelham Street, a public road.
- b) Will not cause a traffic hazard as a result of its location on a curve or a hill;
 - ✓ No traffic hazard will result from the proposed consent.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
 - ✓ Yes, please refer to minor variance report for A15-2022P.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
 - ✓ Yes, municipal services exist on Pelham Street.
- e) Will not have a negative impact on the drainage patterns in the area;
 - ✓ A Lot Grading Plan will be required at the Building Permit stage demonstrating that drainage will be maintained on-site.
- f) Will not affect the develop ability of the remainder of the lands, if they are designated for development by this Plan;

- ✓ There is a concurrent consent application being considered at the same time.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
 - ✓ No environmentally sensitive features are on the property.
- h) Conforms with Regional lot creation policy as articulated in the Regional Policy Plan; and,
 - ✓ Yes.
- i) Complies with the appropriate provincial Minimum Distance Separation Formulae, where applicable.
 - ✓ N/A.

In accordance with Provincial and Regional policy, the Town will accommodate a minimum of 15% of projected housing growth, or about 300 residential dwelling units, within the existing built boundaries of Fonthill and Fenwick (Policy B1.1.3).

Town Planning staff are of the opinion the proposed severance conforms to the local Official Plan as it helps enable intensification within an existing neighbourhood and does not conflict with any policies subject to the satisfaction of the conditions of approval.

Planning staff are of the opinion the application for consent conforms with the Town's Official Plan.

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

The subject lands are currently zoned Residential One (R1) according to Pelham Zoning By-law No. 1136 (1987), as amended. Permitted uses in the R1 zone include one single detached dwellings, accessory uses, and home occupations.

A minor variance application (A15-2022P) is being heard in conjunction with the proposed severance to address the deficient lot frontage and lot area of the severed lot (Part 3).

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/relocation of the existing 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 should 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.
- The applicant is also advised that should deeply buried archaeological remains/resources be found on the property during construction activities, all activities impacting archaeological resources must cease immediately, notify the Archaeology Programs Unit of the Ministry of Heritage, Sport, Tourism and Culture Industries (416-212-8886) and a licensed archaeologist is required to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists. Further, in the event that human remains are encountered during construction, all activities must cease immediately and the local police as well as the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, MHSTCI should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the *Ontario Heritage Act*.

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:

Planning staff have reviewed the *Planning Justification Brief* submitted by Upper Canada Consultants dated September 29, 2022, as well as reviewed all agency and public correspondence submitted to date.

A pre-consult was held with the applicant(s) of the property and staff from the Town, and Niagara Region Planning & Development Services on September 1, 2022 to discuss the subject application.

In response to the public comments received, Planning staff note that the creation of two additional lots with access from Pelham Street and relocating the driveway access of the existing dwelling to Homestead Boulevard will not significantly add to the traffic congestion of the area and these roads have the capacity to accommodate the additional traffic generated from this development. While some trees will need to be removed to accommodate the new house development on the proposed lot, a tree savings plan is required demonstrating tree savings measures for those trees that will be retained and boulevard street trees will also be required. Further lot grading and drainage plan will be required demonstrating how storm drainage will be managed and maintained on-site. Two additional single detached dwellings at this location on Pelham Street is consistent with the streetscape character of Pelham Street and will not adversely impact the character or aesthetics of this residential neighbourhood that is dominated by single detached residential uses.

Based on the analysis in the sections above, Planning staff are of the opinion that the proposed consent is consistent with the PPS, and confirms to Provincial, Regional and local Plans. The resulting parcel will comply with applicable Zoning By-law regulations upon the granting of concurrent minor variance application A15-2022P and are not anticipated to negatively impact the surrounding neighbourhood with respect to traffic, privacy, and stormwater management.

Planning Staff Recommendation:

Planning staff recommend that minor variance file B11/2022P **be approved** subject to the following condition(s):

THAT the applicant:

- That application for consent, file B11/2022P receive final certification of the Secretary-Treasurer concurrently with application B12/2022P.
- That all necessary zoning approvals be obtained for Part 3.
- That the applicant confirm that no existing utilities currently cross the proposed new property line. Should any services cross this new property line, the applicant will be responsible for costs associated with their relocation and/or removal.
- Town of Pelham Public Works Staff require that the applicant submit an overall lot grading and drainage plan to demonstrate that the drainage does not negatively impact nor rely on neighboring properties.
- That the applicant prepare and submit a Tree preservation plan (include trees on lot grading plan) to the satisfaction of the Director of Public Works.
- That the applicant prepare and submit a servicing plan illustrating that the lot is independently serviced and does not rely on neighbouring properties.
- 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.
- That the applicant prepare and submit a Stage 1-2 Archaeological Assessment and provide the Ministry clearance letter.
- The Owner will be required to apply for Regional connection permit(s) for the two sanitary sewer laterals required for the lots and prepare the required plan and profile design drawings for Regional approval.
- 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.
- 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.

Prepared and Submitted by:

Andrew Edwards, BES
Planner

Recommended by:

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

Memo

To: Sarah Leach, Deputy Clerk

CC: Jason Marr, Director of Public Works; Barb Wiens, Director of Planning and Development; Derek Young, Manager of Engineering; Taylor Boyle, Engineering Technologist; Lucas Smith, Engineering Technologist;

From: Gimuel Ledesma, Engineering Technologist

Date: October 19, 2022

File No.: B11/2022P

RE: Consent – 1053 Pelham Street Part 3

Town of Pelham Public Works Staff have reviewed the above noted application and supporting documentation to address the technical concerns regarding the submitted minor variance application. Application is made for consent to partial discharge of mortgage and consent to convey 607.6 square metres of land (Part 3), for future construction of a single detached dwelling. Part 1 is to be retained for continued residential use of the dwelling known municipally as 1053 Pelham Street.

This application is being considered concurrently with Consent Files B12/2022P and Minor Variance Files A15/2022P and A16/2022P.

Public Works offer the following comments:

- Servicing plan for the lot will be required.
- Please be advised that no sideyard walkways that impede sideyard swale should 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
-

Public Works offer the following conditions:

- That the applicant confirm that no existing utilities currently cross the proposed new property line. Should any services cross this new property line, the applicant will be responsible for costs associated with their relocation and/or removal.
- Town of Pelham Public Works Staff require that the applicant submit an overall lot grading and drainage plan to demonstrate that the drainage does not negatively impact nor rely on neighboring properties.
- Tree preservation plan will be required (include trees on lot grading plan)
- Each lot shall be serviced individually

- 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.

To: Sarah Leach

Cc: Andrew Edwards

From: Dave Christensen, Building Intake/Zoning Technician
Community Planning & Development

Date: October 11th, 2022

Subject: Building Comments on Applications to the Committee of Adjustment for
Consents/Minor Variances – November 1st, 2022 Hearing

Comment for Re: File A14/2022P – 14 Wellington Crt.

The building department offers the following comment,

- A building permit is required for the proposed rear enclosed sunroom.

Comment for Re: File A15/2022P & A16/2022P, B11/2022P & B12/2022P – 1035 Pelham St. Parts 2 & 3

The building department offers the following comment,

- Part 1 requires a building permit for the proposed demolition/moved accessory structure.
- Parts 2 & 3 require building permits for the proposed buildings.

VIA E-MAIL ONLY

October 19, 2022

Sarah Leach
Deputy Clerk
Town of Pelham
20 Pelham Town Square
Fonthill, ON, L0S 1E0

Application for Consent (B11-2022P and B12-2022P)

Proposal: Application is made for consent to partial discharge of mortgage and consent to convey 607.6 square metres of land (Part 3), for future construction of a single detached dwelling. Part 1 is to be retained for continued residential use of the dwelling known municipally as 1053 Pelham Street.

Application is made for consent to partial discharge of mortgage and consent to convey 606.5 square metres of land (Part 2), for future construction of a single detached dwelling. Part 1 is to be retained for continued residential use of the dwelling known municipally as 1053 Pelham Street.

Location: 1053 Pelham Street
In the Town of Pelham, Ontario

Our File: **CS-22-0093**

Regional Planning and Development Services staff have completed a review of an application for a consent for a severance and recreation of two new lots for a residential uses located at 1053 Pelham Street in the Town of Pelham.

The following comments are provided from a Regional and Provincial perspective to assist in reviewing the Consent Application.

PROVINCIAL AND REGIONAL POLICIES

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.

ARCHAEOLOGICAL POTENTIAL

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.

SERVICING

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.

WASTE COLLECTION

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.**

CONCLUSION

Based on the analysis and comments above, Regional staff offers no objection to the application, subject to the Conditions outlined in the Appendix.

If you have any questions or wish to discuss these comments please contact the undersigned at extension 3345, or Susan Dunsmore, Manager of Development Engineering at extension 3661.

Best Regards,



Chris Pirkas
Development Approvals Technician
Niagara Region

Attention: Appendix- Regional Conditions for Consent

cc. Susan Dunsmore, Manager, Development Engineering, Niagara Region
Nicholas Godfrey, Development Planner, Niagara Region

APPENDIX
Regional Conditions for Consent
1053 Pelham Street, Town of Pelham

1. Subject to Town requirements, the applicant submitting a Stage 1-2 Archaeological Assessment (and any required subsequent archaeological assessments) for at least the proposed development area on the property to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) and receiving an acknowledgement letter from MHSTCI (copied to the Region) confirming that all archaeological resource concerns have met licensing and resource conservation requirements prior to any development on the site.
2. The following archaeological resources advisory note being included in a development agreement between the owner and the Town:

“Should deeply buried archaeological remains/resources be found on the property during construction activities, all activities impacting archaeological resources must cease immediately, notify the Archaeology Programs Unit of the Ministry of Heritage, Sport, Tourism and Culture Industries (416-212-8886) and a licensed archaeologist is required to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists.

In the event that human remains are encountered during construction, all activities must cease immediately and the local police as well as the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, MHSTCI should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the Ontario Heritage Act.”

3. The Owner will be required to apply for Regional connection permit(s) for the two sanitary sewer laterals required for the lots.

From: [LANDUSEPLANNING](#)
To: [Jacquie Miller](#)
Subject: Pelham - 1053 Pelham St - B11 -B12-2022P
Date: Tuesday, October 11, 2022 10:05:45 AM
Attachments: [image002.png](#)

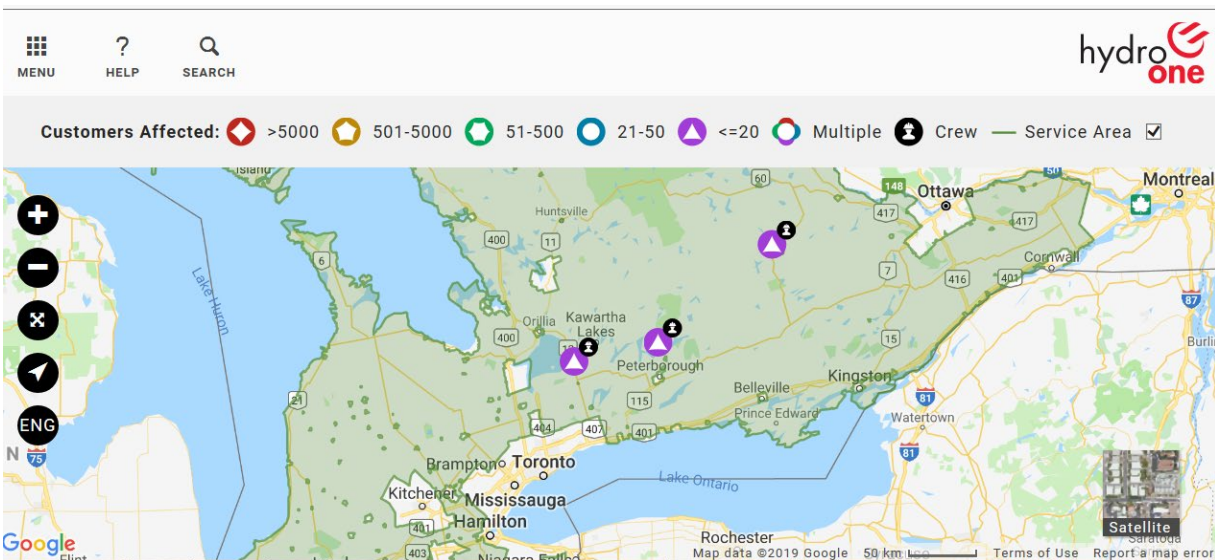
Hello,

We are in receipt of your Consent Applications, B11/2022P & B12/2022P dated October 5, 2022. We have reviewed the documents concerning the noted Plan and have no comments or concerns at this time. Our preliminary review considers issues affecting Hydro One's 'High Voltage Facilities and Corridor Lands' only.

For proposals affecting 'Low Voltage Distribution Facilities' please consult your local area Distribution Supplier. To confirm if Hydro One is your local distributor please follow the following link:

[Stormcentre \(hydroone.com\)](https://stormcentre.hydroone.com)

Please select "Search" and locate address in question by entering the address or by zooming in and out of the map



If Hydro One is your local area Distribution Supplier, please contact Customer Service at 1-888-664-9376 or e-mail CustomerCommunications@HydroOne.com to be connected to your Local Operations Centre

Thank you,

Kitty Luk
Records Administrator | Land Use Planning

Hydro One Networks Inc.

185 Clegg Road
Markham, ON | L6G 1B7

Email: landuseplanning@hydroone.com

From: Jacquie Miller <JMiller@pelham.ca>
Sent: Wednesday, October 5, 2022 11:45 AM
To: LANDUSEPLANNING <LandUsePlanning@HydroOne.com>; MunicipalPlanning@enbridge.com;
jim.sorley <jim.sorley@npei.ca>; ash.neville@rci.rogers.com
Subject: Committee of Adjustment Notices of Hearing - November 1, 2022

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Good morning:

Please find attached the Notices of Hearing for files:

- A15/2022P – 1035 Pelham Street (Part 3);
- A16/2022P – 1035 Pelham Street (Part 2);
- B11/2022P – 1035 Pelham Street (Part 3); and
- B12/2022P – 1035 Pelham Street (Part 2).

Should you require a copy of an application in full, please email me your request.

Thank you,
Jacquie



Jacquie Miller

Legislative and Committee Coordinator, Clerks Department
Town of Pelham

D: 905-980-6664 | E: JMiller@pelham.ca

T: 905-892-2607 x322

20 Pelham Town Square | PO Box 400 | Fonthill, ON | L0S 1E0

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forwards) of the initial email

Sarah Leach

To: Holly Willford; [REDACTED]
Cc: Andrew Edwards
Subject: RE: 1053 Pelham St. Pelham

From: [REDACTED]
Sent: Thursday, October 13, 2022 10:22 AM
To: Holly Willford <HWillford@pelham.ca>
Subject: RE: 1053 Pelham St. Pelham

this is in response to the recently posted notice of a public hearing regarding the property known as 1053 Pelham St, Pelham. This property has already been severed into 3 lots and houses built on these lots facing Homestead . We are **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.

David Winingar

Jan Winingar

[REDACTED]

Sarah Leach

To: Holly Willford; Keith Lewis
Cc: Andrew Edwards
Subject: RE: Notice of Public Hearing File B11/2022P

From: Keith Lewis [REDACTED]
Sent: Friday, October 14, 2022 10:27 AM
To: Holly Willford <HWillford@pelham.ca>
Subject: Notice of Public Hearing File B11/2022P

Notice of Public Hearing
File Number B11/2022P
Subject Lands 1053 Pelham Street, Pelham
Lot 177

I am writing with regards to 1053 Pelham Street, Lot 177. Please know that I have concerns with the proposal to build additional properties as I have zero reassurance that the City, nor owner that is planning to build the additional properties with intent on controlling and/or managing the water runoff for the reasons summarized below.

I am the owner of [REDACTED], and have made numerous complaints to the city, specifically Derek Young (Manager of Engineering) with regards to water drainage and runoff from the recently built houses on Homestead, (built by [REDACTED]) which has led to water draining onto my property causing flooding in my basement and damage to my property.

Brief Summary of Events

After calling the City of Pelham with regards to flooding, I was put in contact Derek Young (Manager of Engineering). I explained to Derek Young, that my family had experienced a basement flood for which I believed stemmed from the improper management of water from the recently built houses located on Homestead. I told him that I had recorded video that illustrated a large amount of water flowing through our fence onto our property from houses located on Homestead and that the owner of [REDACTED] had also indicated concerns to the builder ([REDACTED]) that the storm drain located on the backyard of the property was blocked, preventing water runoff from entering the storm drain system. I also explained to Derek Young that our home was equipped with a sump pit with a primary pump and we had installed a secondary backup pump. (which we installed after taking ownership, as we were informed by neighbours that power outages were frequent for the area).

I also explained to Derek Young that I had other concerns with respect to an old concrete pool that was no longer being maintained and had a known leak by the owner located at [REDACTED]. I explained that I informed the property owner of my concerns that I believed the pool leak was contributing to the ground water problem / flooding basement condition. Albeit, the owner made attempts to fix the leak, however the pool is not maintained and the pool continues to leak to this day. Additionally, the property was listed for sale this summer and during the listing period the owner filled the pool several times knowing that the pool was leaking.

For these reasons and [REDACTED], I was forced to hire a basement leak contractor to install an interior weeping system with a secondary sump pit and back up pump to control the existing water problem at a cost of approx. \$18,000. To date both pumps run simultaneously during wet weather and my basement has remained dry, however I am very concerned that additional housing on lot 177 will increase the water runoff for which I will not be able to control / manage.

I have included the email threads below sent to Derek Young to provide you with some additional information with regards to the water damage to my property.

Feel free to contact me at any time to discuss this communication.

Keith Lewis
[REDACTED]
[REDACTED]
[REDACTED]

From: Keith Lewis [REDACTED]
Sent: September 15, 2021 7:12 PM
To: dyoung@pelham.ca <dyoung@pelham.ca>; [REDACTED]
Subject: Fwd: [REDACTED] Grading Issue

To Derrick Young
Manager of Engineering
Town of Pelham

As per our conversation on the phone yesterday, I am awaiting feedback on the lot grading plans based on my complaint filed on Aug 3rd regarding water entering our property from adjacent properties. Please see attached PDF for pictures from excessive water penetration entering our basement at both the sump pit and hydrostatic water along all perimeter walls at floor.

Keith Lewis
[REDACTED]
[REDACTED]

From: Keith Lewis [REDACTED]
Sent: August 23, 2021 8:20 AM
To: dyoung@pelham.ca <dyoung@pelham.ca>
Subject: Fw: [REDACTED]

Derrick,

Can you please let me a date when you will have information regarding the water runoff complaint communicated on the phone / emailed with you on Aug 3rd. As discussed, I am concerned with the excessive water entering our yard from the houses around us which has caused our basement to flood on 3 occasions (July 8, July 22 and August 1st). Unfortunately, not only have we had damage occur to our basement and belongings in the basement, we have issues with our pool liner identified by the pool company as a result of high-water levels causing the pool liner to float and crease. I have contacted the pool company for a quotation for remedy and a basement waterproofing company for quote. Please find the updates regarding [REDACTED] [REDACTED] I will keep you updated on any additional information I may have.

Update: Aug 23th 8 Homestead

[REDACTED] excavation returned this morning at 7:00am to scope the main storm drain again at [REDACTED]. Speaking with one of the crew members this morning they stated that they will need to repair the main storm drain and have brought a large excavator, however after a conversation with the home owner at [REDACTED] company left. (at this point I am unaware of the conversation)

Update: Aug 20th

I spoke with the neighbour directly behind us at [REDACTED] yesterday Aug 20th at 5pm, she stated that the city of Pelham has been to her property twice to scope the storm drain (initial scope on August 4th), but due to extreme blockage was not able to complete scope. She is still awaiting feedback from the town based on the second visit.

The home builder, [REDACTED], sent the company that installed the storm drains [REDACTED] to visit the home on Aug 20th (yesterday), to sink hole at side of house as well as the main storm drain installed. The company crew informed [REDACTED] that installed the storm drain is likely the result of settlement and the suspected the pipe was damaged. Company also tried to scope storm drain, but was unsuccessful due to blockage. They told the home owner that they were going to flush the pipe and then attempt to scope again. Results were not shared with the home owner, she has reached out to the home builder [REDACTED] for the results.

If you could please reply to this email with any information regarding your investigation with regards to the lot grading for the houses identified, it would be greatly appreciated as we need to correct this issue as soon as possible.

Thanks Again
Keith Lewis
[REDACTED]

From: Keith Lewis [REDACTED]
Sent: August 3, 2021 10:26 AM
To: dyoung@pelham.ca <dyoung@pelham.ca>
Subject: Fw: [REDACTED]

Hello Derrick, pleasure speaking with you today

Description of Issue - water entering out property from adjacent properties, most recently July 8th, 22nd and Aug 1st. I do have video footage of Aug 1st if you would like to review.

These are the properties that we have seen water enter our yard

(North) [REDACTED]
storm drain in back yard, but recent grading is not providing a natural pathway for water (apparently the city is inspecting sink hole beside house for possible storm drain pipe collapse - according to neighbour)

[REDACTED]
recent landscaping with concreted patio, downspout directed under concrete patio via corrugated o-pipe close to fence, discharge of water enters our property

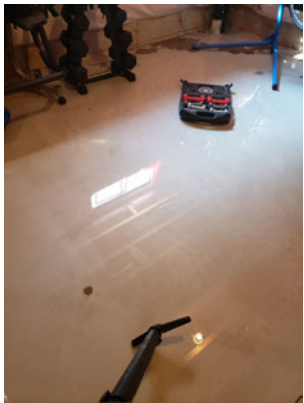
Both neighbours are aware of issue.

Thanks

Keith Lewis
[REDACTED]



- [REDACTED]
- Pictures are from last flood only Sept 13th and Sept 14th
- basement flooded on 4 occasions (July 8, July 22 and August 1st and Sept 13th -14th)
- August 3, 2021 10:26 AM contacted Derek Young - Manager of Engineering by phone and email - Derrick to pull lot grading plans to assess water run off – waiting for assessment
- Contacted Derrick by email on Aug 23rd for update on lot grading assessment, also provided details of investigation for sink hole and storm drain at [REDACTED] – awaiting reply
- Contacted Town of Pelham – Spoke to Derrick, let him know that we are still having water flooding condition – Derrick stated he was waiting on information from [REDACTED], home builder for [REDACTED] regarding storm drain etc. – awaiting reply







Community Planning and Development Department
Committee of Adjustment
Tuesday, November 01, 2022

Consent Application: B12-2022P

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

Location of Lands and Purpose of Application:

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, in the Town of Pelham.

Application is made for consent to partial discharge of mortgage and consent to convey 606.5 square metres of land (Part 2) for future residential purposes (single detached dwelling). Part 1 is to be retained for continued residential use. The existing single detached dwelling is to be retained.

Note this application is being held in conjunction with application for consent B11-2022P, and minor variance applications A15-2022P and A16-2022P.

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;
 - See PSS and Growth Plan analysis in sections below.
- b) Whether the proposed subdivision is premature or in the public interest;
 - The application is not considered premature and is able to uphold public interest as it is within the Urban Area Boundary and is seen as an appropriate form of gentle intensification.
- c) Whether the plan conforms to the Official Plan and adjacent plans of subdivisions, if any;
 - See Official Plan discussion below.

- d) The suitability of the land for such purposes;
 - The lands and surrounding neighbourhood are predominately low density residential dwellings. The proposed consent would facilitate the construction of an additional single detached dwelling on the proposed lot.
- f) The dimensions and shapes of the proposed lots;
 - The proposed lot will have comparable dimensions and shape to the surrounding neighbourhood and will be able to comfortably site a new single detached dwelling. It is noted minor variances are required for lot frontage and lot area.
- h) Conservation of natural resources and flood control;
 - No natural resources or flood concerns have been identified. A lot grading and drainage plan is a requirement.
- i) The adequacy of utilities and municipal services;
 - The retained parcel is connected to municipal infrastructure and has access to the full range of public services. Utilities and municipal services are available to service the severed parcel.
- j) The adequacy of school sites;
 - Available nearby. School Boards did not comment on application.

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 application for consent seeks to partial discharge of mortgage and consent to convey 606.5 square metres of land (Part 2) for future residential development of a single detached dwelling.

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 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.

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.

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*.

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. A stage 1-2 archaeological assessment and Ministry clearance letter will be a condition of approval.

Planning staff are of the opinion the requested application for consent is consistent with the PPS.

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)

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.

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.

The additional residential lot will help the Town to meet or exceed its *delineated built boundary* intensification targets. The proposed lot will help contribute towards the municipal property tax base which helps financially support the maintenance of linear infrastructure and *public service facilities*. The existing water and sanitary sewer mains already extend along the frontage of the subject lands but would be better utilized with additional building connections.

Planning staff are of the opinion the proposed application for consent conforms with 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).'

Policy 4.G.6.2 indicates 'Urban Areas' will be the focus for accommodating the Region's growth and development.

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.

Niagara Region Official Plan (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, 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 our natural heritage features. The local Official Plan designates the subject land as 'Urban Living Area/Built Boundary' on Schedule 'A1.'

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.

Policy A2.5.2 Infrastructure – stated objectives of this Plan include maintaining existing infrastructure in a manner that is cost effective and contributes to the quality of life of citizens.

Policy B1.1.3 states that in considering residential intensification proposals, the following criteria are applicable:

- a) Schedules A1 and A2 to this Plan identify a number of areas that may be good candidates for residential intensification. This does not preclude consideration for other sites in the Urban Living Area designation provided these sites abut arterial or collector roads or are located on a local road on a site that is no further than 100 metres from an intersection with an arterial or collector road;
 - ✓ The Subject Lands have frontage along Pelham Street which is identified as an Arterial Road.
- b) Intensification and redevelopment proposals are encouraged to achieve a unit density and housing type that is in keeping with the character of the density of the neighbourhood where it is proposed. Within the identified intensification areas identified on Schedules A1 and A2 the implementing Zoning By-law may establish minimum and maximum densities of between 10 and 25 units per hectare;
 - ✓ The proposed density is approximately 16.5 units per hectare.
- c) Residential intensification and redevelopment proposals located on lands which abut local roads shall maintain the unit density and unit type of the surrounding neighbourhood, but may through a Zoning By-law Amendment, increase the unit density by up to 25% of the existing gross density of lands located within 300 metres of the site, provided the resultant development will be characterized by quality design and landscaping, suitable building setbacks, and further that parking areas and traffic movements will not negatively impact the surrounding neighbourhood from the perspectives of safety or neighbourhood character;

- ✓ Not applicable as the proposal abuts an arterial road and not a local road, therefore this policy does not apply to this proposal.
- d) Notwithstanding items (b) and (c), the creation of new freehold or vacant condominium infill lots through the consent process, for ground-oriented detached dwellings, may be permitted provided the proposed lot and unit type is similar to and compatible with the established character of the street or neighbourhood where it is proposed. The Zoning By-law shall establish minimum lot area and frontages and minimum and/or maximum densities which are considered appropriate within the Urban Living Area designation;
 - ✓ The proposed use is similar to the surrounding neighbourhood, being mostly comprised of single detached dwellings. The proposed dwellings will front and face Pelham Street, consistent with the other residential uses on the east side of Pelham Street.
- e) The creation of accessory apartments and in-law suites within residential neighbourhoods is considered to be an appropriate form of residential intensification. The establishment of accessory apartments shall occur in accordance with Policy B1.1.4 and Council may reduce the application fee for such amendments under the Town's Tariff of Fees By-law;
 - ✓ Second dwelling units are permitted in single detached dwellings subject to meeting the zoning by-law requirements for such uses.
- f) The provision of affordable housing in intensification areas will be encouraged; and,
 - ✓ The new lots will contribute to the housing stock across the Town.
- g) The Town will consider innovations for responsive processing of applications and amendments in the future including tools such as Conditional Zoning Amendments implementing a Development Permit system and the streamlining of processing concurrent development applications.
 - ✓ Not applicable.

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;
 - ✓ Access will be provided from Pelham Street, a public road.
- b) Will not cause a traffic hazard as a result of its location on a curve or a hill;
 - ✓ No traffic hazard will result from the proposed consent.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
 - ✓ Yes, please refer to minor variance report for A16-2022P.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
 - ✓ Yes, municipal services exist on Pelham Street.
- e) Will not have a negative impact on the drainage patterns in the area;
 - ✓ A Lot Grading Plan will be required at the Building Permit stage demonstrating that drainage will be maintained on-site.
- f) Will not affect the develop ability of the remainder of the lands, if they are designated for development by this Plan;

- ✓ There is a concurrent consent application being considered at the same time.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
 - ✓ No environmentally sensitive feature are on the property.
- h) Conforms with Regional lot creation policy as articulated in the Regional Policy Plan; and,
 - ✓ Yes.
- i) Complies with the appropriate provincial Minimum Distance Separation Formulae, where applicable.
 - ✓ N/A.

In accordance with Provincial and Regional policy, the Town will accommodate a minimum of 15% of projected housing growth, or about 300 residential dwelling units, within the existing built boundaries of Fonthill and Fenwick (Policy B1.1.3).

Town Planning staff are of the opinion the proposed severance conforms to the local Official Plan as it helps enable intensification within an existing neighbourhood and does not conflict with any policies subject to the satisfaction of the conditions of approval.

Planning staff are of the opinion the application for consent conforms with the Town's Official Plan.

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

The subject lands are currently zoned Residential One (R1) according to Pelham Zoning By-law No. 1136 (1987), as amended. Permitted uses in the R1 zone include one single detached dwellings, accessory uses, and home occupations.

A minor variance application (A16-2022P) is being heard in conjunction with the proposed severance to address the deficient lot frontage and lot area of the severed lot (Part 2).

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 should 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.
- The applicant is also advised that should deeply buried archaeological remains/resources be found on the property during construction activities, all activities impacting archaeological resources must cease immediately, notify the Archaeology Programs Unit of the Ministry of Heritage, Sport, Tourism and Culture Industries (416-212-8886) and a licensed archaeologist is required to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists. Further, in the event that human remains are encountered during construction, all activities must cease immediately and the local police as well as the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, MHSTCI should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the *Ontario Heritage Act*.

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

- David & Jan Winingar
 - 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:

Planning staff have reviewed the *Planning Justification Brief* submitted by Upper Canada Consultants dated September 29, 2022, as well as reviewed all agency and public correspondence submitted to date.

A pre-consult was held with the applicant(s) of the property and staff from the Town, and Niagara Region Planning & Development Services on September 1, 2022 to discuss the subject application.

In response to the public comments received, Planning staff note that the creation of two additional lots with access from Pelham Street and relocating the driveway access of the existing dwelling to Homestead Boulevard will not significantly add to the traffic congestion of the area and these roads have the capacity to accommodate the additional traffic generated from this development. While some trees will need to be removed to accommodate the new house development on the proposed lot, a tree savings plan is required demonstrating tree savings measures for those trees that will be retained and boulevard street trees will also be required. Further lot grading and drainage plan will be required demonstrating how storm drainage will be managed and maintained on-site. Two additional single detached dwellings at this location on Pelham Street is consistent with the streetscape character of Pelham Street and will not adversely impact the character or aesthetics of this residential neighbourhood that is dominated by single detached residential uses.

Based on the analysis in the sections above, Planning staff are of the opinion that the proposed consent is consistent with the PPS, and confirms to Provincial, Regional and local Plans. The resulting parcel will comply with applicable Zoning By-law regulations upon the granting of concurrent minor variance application A16-2022P and are not anticipated to negatively impact the surrounding neighbourhood with respect to traffic, privacy, and stormwater management.

Planning Staff Recommendation:

Planning staff recommend that minor variance file B12/2022P **be approved** subject to the following condition(s):

THAT the applicant:

- That all necessary zoning approvals be obtained for Part 2.
- That application for consent, file B12/2022P receive final certification of the Secretary-Treasurer concurrently with application B11/2022P.
- That the applicant confirm that no existing utilities currently cross the proposed new property line. Should any services cross this new property line, the applicant will be responsible for costs associated with their relocation and/or removal.
- Town of Pelham Public Works Staff require that the applicant submit an overall lot grading and drainage plan to demonstrate that the drainage does not negatively impact nor rely on neighboring properties.
- That the applicant prepare and submit a Tree preservation plan (include trees on lot grading plan) to the satisfaction of the Director of Public Works.
- That the applicant prepare and submit a servicing plan illustrating that the lot is independently serviced and does not rely on neighbouring properties.
- 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.
- That the applicant prepare and submit a Stage 1-2 Archaeological Assessment and provide the Ministry clearance letter.
- The Owner will be required to apply for Regional connection permit(s) for the two sanitary sewer laterals required for the lots and prepare the required plan and profile design drawings for Regional approval.
- 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.
- 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.

Prepared and Submitted by:

Andrew Edwards, BES
Planner

Recommended by:

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

Memo

To: Sarah Leach, Deputy Clerk

CC: Jason Marr, Director of Public Works; Barb Wiens, Director of Planning and Development; Derek Young, Manager of Engineering; Taylor Boyle, Engineering Technologist; Lucas Smith, Engineering Technologist;

From: Gimuel Ledesma, Engineering Technologist

Date: October 19, 2022

File No.: B12/2022P

RE: Consent – 1053 Pelham Street Part 2

Town of Pelham Public Works Staff have reviewed the above noted application and supporting documentation to address the technical concerns regarding the submitted minor variance application. Application is made for consent to partial discharge of mortgage and consent to convey 606.5 square metres of land (Part 2), for future construction of a single detached dwelling. Part 1 is to be retained for continued residential use of the dwelling known municipally as 1053 Pelham Street.

This application is being considered concurrently with Consent Files B11/2022P and Minor Variance Files A15/2022P and A16/2022P.

Public Works offer the following comments:

- Servicing plan for the lot will be required.
- Please be advised that no sideyard walkways that impede sideyard swale should 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

Public Works offer the following conditions:

- That the applicant confirm that no existing utilities currently cross the proposed new property line. Should any services cross this new property line, the applicant will be responsible for costs associated with their relocation and/or removal.
- Town of Pelham Public Works Staff require that the applicant submit an overall lot grading and drainage plan to demonstrate that the drainage does not negatively impact nor rely on neighboring properties.
- Tree preservation plan will be required (include trees on lot grading plan)
- Each lot shall be serviced individually

- 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.

To: Sarah Leach

Cc: Andrew Edwards

From: Dave Christensen, Building Intake/Zoning Technician
Community Planning & Development

Date: October 11th, 2022

Subject: Building Comments on Applications to the Committee of Adjustment for
Consents/Minor Variances – November 1st, 2022 Hearing

Comment for Re: File A14/2022P – 14 Wellington Crt.

The building department offers the following comment,

- A building permit is required for the proposed rear enclosed sunroom.

Comment for Re: File A15/2022P & A16/2022P, B11/2022P & B12/2022P – 1035 Pelham St. Parts 2 & 3

The building department offers the following comment,

- Part 1 requires a building permit for the proposed demolition/moved accessory structure.
- Parts 2 & 3 require building permits for the proposed buildings.

VIA E-MAIL ONLY

October 19, 2022

Sarah Leach
Deputy Clerk
Town of Pelham
20 Pelham Town Square
Fonthill, ON, L0S 1E0

Application for Consent (B11-2022P and B12-2022P)

Proposal: Application is made for consent to partial discharge of mortgage and consent to convey 607.6 square metres of land (Part 3), for future construction of a single detached dwelling. Part 1 is to be retained for continued residential use of the dwelling known municipally as 1053 Pelham Street.

Application is made for consent to partial discharge of mortgage and consent to convey 606.5 square metres of land (Part 2), for future construction of a single detached dwelling. Part 1 is to be retained for continued residential use of the dwelling known municipally as 1053 Pelham Street.

Location: 1053 Pelham Street
In the Town of Pelham, Ontario

Our File: **CS-22-0093**

Regional Planning and Development Services staff have completed a review of an application for a consent for a severance and recreation of two new lots for a residential uses located at 1053 Pelham Street in the Town of Pelham.

The following comments are provided from a Regional and Provincial perspective to assist in reviewing the Consent Application.

PROVINCIAL AND REGIONAL POLICIES

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.

ARCHAEOLOGICAL POTENTIAL

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.

SERVICING

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.

WASTE COLLECTION

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.**

CONCLUSION

Based on the analysis and comments above, Regional staff offers no objection to the application, subject to the Conditions outlined in the Appendix.

If you have any questions or wish to discuss these comments please contact the undersigned at extension 3345, or Susan Dunsmore, Manager of Development Engineering at extension 3661.

Best Regards,



Chris Pirkas
Development Approvals Technician
Niagara Region

Attention: Appendix- Regional Conditions for Consent

cc. Susan Dunsmore, Manager, Development Engineering, Niagara Region
Nicholas Godfrey, Development Planner, Niagara Region

APPENDIX
Regional Conditions for Consent
1053 Pelham Street, Town of Pelham

1. Subject to Town requirements, the applicant submitting a Stage 1-2 Archaeological Assessment (and any required subsequent archaeological assessments) for at least the proposed development area on the property to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) and receiving an acknowledgement letter from MHSTCI (copied to the Region) confirming that all archaeological resource concerns have met licensing and resource conservation requirements prior to any development on the site.
2. The following archaeological resources advisory note being included in a development agreement between the owner and the Town:

“Should deeply buried archaeological remains/resources be found on the property during construction activities, all activities impacting archaeological resources must cease immediately, notify the Archaeology Programs Unit of the Ministry of Heritage, Sport, Tourism and Culture Industries (416-212-8886) and a licensed archaeologist is required to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists.

In the event that human remains are encountered during construction, all activities must cease immediately and the local police as well as the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, MHSTCI should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the Ontario Heritage Act.”

3. The Owner will be required to apply for Regional connection permit(s) for the two sanitary sewer laterals required for the lots.

From: [LANDUSEPLANNING](#)
To: [Jacquie Miller](#)
Subject: Pelham - 1053 Pelham St - B11 -B12-2022P
Date: Tuesday, October 11, 2022 10:05:45 AM
Attachments: [image002.png](#)

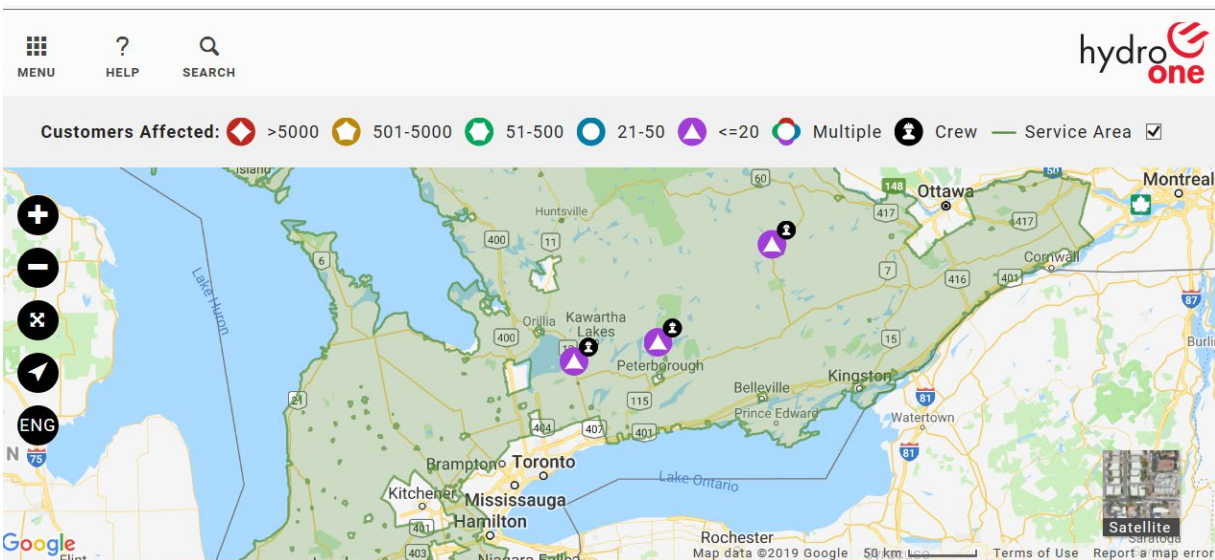
Hello,

We are in receipt of your Consent Applications, B11/2022P & B12/2022P dated October 5, 2022. We have reviewed the documents concerning the noted Plan and have no comments or concerns at this time. Our preliminary review considers issues affecting Hydro One's 'High Voltage Facilities and Corridor Lands' only.

For proposals affecting 'Low Voltage Distribution Facilities' please consult your local area Distribution Supplier. To confirm if Hydro One is your local distributor please follow the following link:

[Stormcentre \(hydroone.com\)](https://stormcentre.hydroone.com/)

Please select "Search" and locate address in question by entering the address or by zooming in and out of the map



If Hydro One is your local area Distribution Supplier, please contact Customer Service at 1-888-664-9376 or e-mail CustomerCommunications@HydroOne.com to be connected to your Local Operations Centre

Thank you,

Kitty Luk
Records Administrator | Land Use Planning

Hydro One Networks Inc.

185 Clegg Road
Markham, ON | L6G 1B7

Email: landuseplanning@hydroone.com

From: Jacquie Miller <JMiller@pelham.ca>
Sent: Wednesday, October 5, 2022 11:45 AM
To: LANDUSEPLANNING <LandUsePlanning@HydroOne.com>; MunicipalPlanning@enbridge.com;
jim.sorley <jim.sorley@npei.ca>; ash.neville@rci.rogers.com
Subject: Committee of Adjustment Notices of Hearing - November 1, 2022

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Good morning:

Please find attached the Notices of Hearing for files:

- A15/2022P – 1035 Pelham Street (Part 3);
- A16/2022P – 1035 Pelham Street (Part 2);
- B11/2022P – 1035 Pelham Street (Part 3); and
- B12/2022P – 1035 Pelham Street (Part 2).

Should you require a copy of an application in full, please email me your request.

Thank you,
Jacquie



Jacquie Miller

Legislative and Committee Coordinator, Clerks Department
Town of Pelham

D: 905-980-6664 | E: JMiller@pelham.ca

T: 905-892-2607 x322

20 Pelham Town Square | PO Box 400 | Fonthill, ON | L0S 1E0

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forwards) of the initial email

Sarah Leach

To: Holly Willford; [REDACTED]
Cc: Andrew Edwards
Subject: RE: 1053 Pelham St. Pelham

From: [REDACTED]
Sent: Thursday, October 13, 2022 10:22 AM
To: Holly Willford <HWillford@pelham.ca>
Subject: RE: 1053 Pelham St. Pelham

this is in response to the recently posted notice of a public hearing regarding the property known as 1053 Pelham St, Pelham. This property has already been severed into 3 lots and houses built on these lots facing Homestead . We are **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.

David Winingar

Jan Winingar

[REDACTED]

Sarah Leach

To: Holly Willford; Keith Lewis
Cc: Andrew Edwards
Subject: RE: Notice of Public Hearing File B11/2022P

From: Keith Lewis [REDACTED]
Sent: Friday, October 14, 2022 10:27 AM
To: Holly Willford <HWillford@pelham.ca>
Subject: Notice of Public Hearing File B11/2022P

Notice of Public Hearing
File Number B11/2022P
Subject Lands 1053 Pelham Street, Pelham
Lot 177

I am writing with regards to 1053 Pelham Street, Lot 177. Please know that I have concerns with the proposal to build additional properties as I have zero reassurance that the City, nor owner that is planning to build the additional properties with intent on controlling and/or managing the water runoff for the reasons summarized below.

I am the owner of [REDACTED], and have made numerous complaints to the city, specifically Derek Young (Manager of Engineering) with regards to water drainage and runoff from the recently built houses on Homestead, (built by [REDACTED]) which has led to water draining onto my property causing flooding in my basement and damage to my property.

Brief Summary of Events

After calling the City of Pelham with regards to flooding, I was put in contact Derek Young (Manager of Engineering). I explained to Derek Young, that my family had experienced a basement flood for which I believed stemmed from the improper management of water from the recently built houses located on Homestead. I told him that I had recorded video that illustrated a large amount of water flowing through our fence onto our property from houses located on Homestead and that the owner of [REDACTED] had also indicated concerns to the builder ([REDACTED]) that the storm drain located on the backyard of the property was blocked, preventing water runoff from entering the storm drain system. I also explained to Derek Young that our home was equipped with a sump pit with a primary pump and we had installed a secondary backup pump. (which we installed after taking ownership, as we were informed by neighbours that power outages were frequent for the area).

I also explained to Derek Young that I had other concerns with respect to an old concrete pool that was no longer being maintained and had a known leak by the owner located at [REDACTED]. I explained that I informed the property owner of my concerns that I believed the pool leak was contributing to the ground water problem / flooding basement condition. Albeit, the owner made attempts to fix the leak, however the pool is not maintained and the pool continues to leak to this day. Additionally, the property was listed for sale this summer and during the listing period the owner filled the pool several times knowing that the pool was leaking.

For these reasons and [REDACTED], I was forced to hire a basement leak contractor to install an interior weeping system with a secondary sump pit and back up pump to control the existing water problem at a cost of approx. \$18,000. To date both pumps run simultaneously during wet weather and my basement has remained dry, however I am very concerned that additional housing on lot 177 will increase the water runoff for which I will not be able to control / manage.

I have included the email threads below sent to Derek Young to provide you with some additional information with regards to the water damage to my property.

Feel free to contact me at any time to discuss this communication.

Keith Lewis
[REDACTED]
[REDACTED]
[REDACTED]

From: Keith Lewis [REDACTED]
Sent: September 15, 2021 7:12 PM
To: dyoung@pelham.ca <dyoung@pelham.ca>; [REDACTED]
Subject: Fwd: [REDACTED] Grading Issue

To Derrick Young
Manager of Engineering
Town of Pelham

As per our conversation on the phone yesterday, I am awaiting feedback on the lot grading plans based on my complaint filed on Aug 3rd regarding water entering our property from adjacent properties. Please see attached PDF for pictures from excessive water penetration entering our basement at both the sump pit and hydrostatic water along all perimeter walls at floor.

Keith Lewis
[REDACTED]
[REDACTED]

From: Keith Lewis [REDACTED]
Sent: August 23, 2021 8:20 AM
To: dyoung@pelham.ca <dyoung@pelham.ca>
Subject: Fw: [REDACTED]

Derrick,

Can you please let me a date when you will have information regarding the water runoff complaint communicated on the phone / emailed with you on Aug 3rd. As discussed, I am concerned with the excessive water entering our yard from the houses around us which has caused our basement to flood on 3 occasions (July 8, July 22 and August 1st). Unfortunately, not only have we had damage occur to our basement and belongings in the basement, we have issues with our pool liner identified by the pool company as a result of high-water levels causing the pool liner to float and crease. I have contacted the pool company for a quotation for remedy and a basement waterproofing company for quote. Please find the updates regarding [REDACTED] I will keep you updated on any additional information I may have.

Update: Aug 23th 8 Homestead

[REDACTED] excavation returned this morning at 7:00am to scope the main storm drain again at [REDACTED]. Speaking with one of the crew members this morning they stated that they will need to repair the main storm drain and have brought a large excavator, however after a conversation with the home owner at [REDACTED] company left. (at this point I am unaware of the conversation)

Update: Aug 20th

I spoke with the neighbour directly behind us at [REDACTED] yesterday Aug 20th at 5pm, she stated that the city of Pelham has been to her property twice to scope the storm drain (initial scope on August 4th), but due to extreme blockage was not able to complete scope. She is still awaiting feedback from the town based on the second visit.

The home builder, [REDACTED], sent the company that installed the storm drains [REDACTED] to visit the home on Aug 20th (yesterday), to sink hole at side of house as well as the main storm drain installed. The company crew informed [REDACTED] that installed the storm drain is likely the result of settlement and the suspected the pipe was damaged. Company also tried to scope storm drain, but was unsuccessful due to blockage. They told the home owner that they were going to flush the pipe and then attempt to scope again. Results were not shared with the home owner, she has reached out to the home builder [REDACTED] for the results.

If you could please reply to this email with any information regarding your investigation with regards to the lot grading for the houses identified, it would be greatly appreciated as we need to correct this issue as soon as possible.

Thanks Again
Keith Lewis
[REDACTED]

From: Keith Lewis [REDACTED]
Sent: August 3, 2021 10:26 AM
To: dyoung@pelham.ca <dyoung@pelham.ca>
Subject: Fw: [REDACTED]

Hello Derrick, pleasure speaking with you today

Description of Issue - water entering out property from adjacent properties, most recently July 8th, 22nd and Aug 1st. I do have video footage of Aug 1st if you would like to review.

These are the properties that we have seen water enter our yard

(North) [REDACTED]
storm drain in back yard, but recent grading is not providing a natural pathway for water (apparently the city is inspecting sink hole beside house for possible storm drain pipe collapse - according to neighbour)

[REDACTED]
recent landscaping with concreted patio, downspout directed under concrete patio via corrugated o-pipe close to fence, discharge of water enters our property

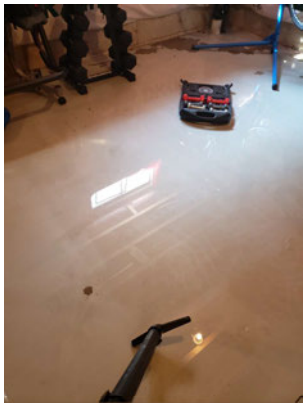
Both neighbours are aware of issue.

Thanks

Keith Lewis
[REDACTED]



- [REDACTED]
- Pictures are from last flood only Sept 13th and Sept 14th
- basement flooded on 4 occasions (July 8, July 22 and August 1st and Sept 13th -14th)
- August 3, 2021 10:26 AM contacted Derek Young - Manager of Engineering by phone and email - Derrick to pull lot grading plans to assess water run off – waiting for assessment
- Contacted Derrick by email on Aug 23rd for update on lot grading assessment, also provided details of investigation for sink hole and storm drain at [REDACTED] – awaiting reply
- Contacted Town of Pelham – Spoke to Derrick, let him know that we are still having water flooding condition – Derrick stated he was waiting on information from [REDACTED], home builder for [REDACTED] regarding storm drain etc. – awaiting reply





Committee of Adjustment**Minutes**

Meeting #: CofA 07/2022
Date: Tuesday, July 5, 2022
Time: 4:00 pm
Location: Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

Members Present Donald Cook
John Klassen
Bernie Law

Members Absent Sandra Marsh
Brenda Stan

Staff Present Holly Willford
Sarah Leach
Lindsay Richardson
Andrew Edwards
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

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

Ms. Sarah Leach, Assistant Secretary-Treasurer, recited the 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 A30/2021P - 350 Canboro Road

Purpose of the Application

Application is made for relief of Section 7.7(a) "Maximum (Accessory) Lot Coverage" – to permit a maximum accessory lot coverage of 2% whereas the by-law allows for 1% provided the maximum lot coverage of all buildings does not exceed 10%.

Representation

The Agent, Michael Mirynech of 2M Architects and Planner, Scott Puillandre were electronically present.

Correspondence Received

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Niagara Region

Applicants Comments

The Agent, Mr. Mirynech advised that a previous application for the subject property was submitted and withdrawn with the intent to reduce the scale of the proposal and re-locate the placement of the garage closer to the existing dwelling. Mr. Mirynech asked for clarification regarding the proposed condition requesting a stage 1-2 archaeological assessment. Mr. Mirynech stated that there is an existing multiple vehicle garage on the site. He further stated that the site has already been disturbed and the proposed garage would be built on top of where the existing garage stands. Ms. Lindsay Richardson, Policy Planner, responded that the condition was recommended given the anticipated significant ground disturbance. Ms. Richardson stated that as the garage is proposed to be developed on the existing site, the condition would not be recommended

in similar circumstances. She stated that removal of the condition is for the Committee to consider.

Mr. Mirynech advised that excavation would have occurred on the existing footings. A Member asked for confirmation that the proposal will be constructed on the existing footprint. Mr. Mirynech indicated that the proposed garage is larger than the current structure but will be constructed directly on top of the existing footings. Mr. Mirynech and Mr. Puillandre requested that the condition of a stage 1-2 archaeological assessment be removed.

Public Comments

Ms. Sarah Leach, Assistant Secretary Treasurer indicated that there were no pre-registered members of the public for the subject application. Ms. Leach checked the clerks@pelham.ca email address at 4:19 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 Bernie Law

THAT the public portion of meeting be closed.

Carried

Member Comments

All Members indicated that they agreed with the request to remove the proposed condition of a stage 1-2 archaeological assessment.

Moved By John Klassen
Seconded By Bernie Law

THAT application for relief of Section 7.7(a) “Maximum (Accessory) Lot Coverage” – to permit a maximum accessory lot coverage of 2% whereas the by-law allows for 1% provided the maximum lot coverage of all buildings does not exceed 10%, is hereby: GRANTED;

The above decision is based on the following reasons:

1. **The variance is minor in nature as no adverse impacts on massing or streetscape are anticipated.**
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 facilitate the construction of a detached garage to accommodate for the homeowner's storage and recreational use.**
5. **This application is granted without prejudice to any other application in the Town of Pelham.**
6. **No objections were received from commenting agencies or abutting property owners.**
7. **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 decision is 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, and shall not be approved for living accommodations or plumbing within the accessory building.**

Carried

5.2 A6/2022P - 119 Lametti Drive

Purpose of the Application

Application is made for relief of By-law 3705(2016), Section R2-254(f) "Minimum Rear Yard" – to permit a minimum rear yard of 5.3m whereas the by-law requires a minimum rear yard of 7.5m.

Representation

The Applicants, Jefferson Stephens and Diane Redekop were electronically present.

Correspondence Received

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building

Applicants Comments

The Applicant, Mr. Stephens indicated the application is made to legally re-construct the existing deck.

Public Comments

Ms. Sarah Leach, Assistant Secretary Treasurer indicated that there were no pre-registered members of the public for the subject application. Ms. Leach checked the clerks@pelham.ca email address at 4:27 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 Bernie Law

Seconded By John Klassen

THAT the public portion of the meeting be closed.

Carried

Member Comments

A Member asked if the proposed deck would be the same as the existing deck. Mr. Stephens stated the existing deck was built when the original building permit was open, but had not been included in the building permit. Mr. Stephens further indicated that the proposal is a direct replacement of the deck with the intent to ensure proper permits are received.

A Member suggested that the deck will better match the elevation of the existing patio door.

A Member expressed support of the application indicating that the existing deck should be replaced with a better constructed deck to ensure safety. Mr. Stephens responded that it is the intention of the Applicants to rebuild

the deck properly with appropriate engineering done for the new foundation.

A Member asked if a condition is required for the demolition of the existing deck. A Member clarified that demolition is addressed through the condition requiring all necessary building permits be obtained prior to construction.

Moved By Bernie Law

Seconded By John Klassen

Application for relief of By-law 3705(2016), Section R2-254(f) “Minimum Rear Yard” – to permit a minimum rear yard of 5.3m whereas the by-law requires 7.5m, 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 given the lot context.**
- 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 as it will permit the legal reconstruction of the existing rear yard deck while maintaining adequate rear yard amenity areas.**
- 5. This application is granted without prejudice to any other application in the Town of Pelham.**
- 6. No objections were received from commenting agencies or abutting property owners.**
- 7. 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 decision is 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.**

Carried

5.3 A7/2022P - 904 Church Street

Purpose of the Application

Application is made for relief from Section 9.2(g) “Minimum Rear Yard” – to permit a minimum rear yard of 3.66m whereas the by-law requires a minimum rear yard of 7.5m.

Representation

The Applicants, Richard Froese and Gary Froese were electronically present.

Correspondence Received

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building

Applicants Comments

The Applicant offered no additional comments.

Public Comments

Ms. Sarah Leach, Assistant Secretary Treasurer indicated that there were no pre-registered members of the public for the subject application. Ms. Leach checked the clerks@pelham.ca email address at 4:38 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 Bernie Law

Seconded By John Klassen

THAT the public portion of the meeting be closed.

Carried

Member Comments

A Member stated that the proposal was a nice addition.

A Member stated the proposal was a good example of an intensification project. The Member expressed concern that the sanitary sewer system and water system in the Village of Fenwick may not be able to support an influx of such proposals. The Member further noted that the Region of Niagara does have money in the Capital budget for the refurbishing of pumping and water stations to accommodate this need. The Member reaffirmed that the Niagara Region did not comment on this proposal.

Moved By John Klassen

Seconded By Bernie Law

Application for relief of Section 9.2(g) “Minimum Rear Yard” – to permit a minimum rear yard of 3.66m whereas the by-law requires a minimum rear yard of 7.5m. 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 on adjacent properties as adequate distance separates the nearest residential neighbour from the location of the addition.**
- 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 permit the construction of a new attached 2-storey garage and second dwelling unit, which is in keeping with the housing and intensification policies of the Province, Region and Town. The proposed addition is compatible with the existing dwelling and the built form, maintaining the residential character of the area.**

5. This application is granted without prejudice to any other application in the Town of Pelham.
6. No objections were received from commenting agencies or abutting property owners.
7. 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 decision is 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 a Driveway Access and Culvert Permit from the Town for the construction of a new driveway or any modifications to existing driveways/entrance. Installation and/or modification of new entrances shall be completed in accordance with Town Standards prior to Building Permit and the Applicant shall bear all costs associated with the works.
 2. Submit an updated Lot Grading & Drainage Plan to demonstrate that drainage neither relies, nor negatively impacts neighbouring properties, to the satisfaction of the Director of Public Works, or designate.

Carried

6. Applications for Consent

6.1 B6/2022P - 645 Canboro Road

Purpose of the Application

Application is made for consent to convey 0.22 hectares of land (Part 1), to be added to the abutting property to the east (Part 3), to rectify existing

encroachments. Part 2 is to be retained for continued residential use of the dwelling known municipally as 645 Canboro Road.

Representation

The Agent, Leigh Whyte of PLW Consulting and the Applicants, Robert and Roger Moores 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. Hydro One

Applicants Comments

The Agent, Mr. Leigh Whyte, stated that the estate which owns the property to the west is being divided amongst three beneficiaries, including the parcel to the east. Mr. Whyte stated the boundary adjustment is proposed to create a buffer from the existing residence. Mr. Whyte indicated the lands are within a settlement area and could be developed in the future and therefore a buffer is desired.

Public Comments

Ms. Sarah Leach, Assistant Secretary Treasurer indicated that there were no pre-registered members of the public for the subject application. Ms. Leach checked the clerks@pelham.ca email address at 4:46 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 Bernie Law

Seconded By John Klassen

THAT the public portion of the meeting be closed.

Carried

Member Comments

The Members offered no additional comments.

Moved By Bernie Law

Seconded By John Klassen

Application is made for consent to convey 0.22 hectares of land (Part 1), to be added to the abutting property to the east (Part 3), to rectify existing encroachments. Part 2 is to be retained for continued residential use of the dwelling known municipally as 645 Canboro Road; is hereby; GRANTED;

The above decision is subject to the following conditions:

To the Satisfaction of the Region of Niagara, Planning and Development Services

- 1. That the owner of 645 Canboro Road (Part 2) apply to and receive approval from the Niagara Region for a Septic Permit Application to install a new Class 4 Sewage System to service the existing dwelling on the Property to the satisfaction of the Region of Niagara.**

To the Satisfaction of the Director of Public Works

- 1. 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. 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 (Part 3 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.

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.

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. No objections to this proposal were received from commenting agencies or neighbouring property owners.
4. 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 Bernie Law

Seconded By John Klassen

THAT the Committee of Adjustment minutes dated May 4, 2022, be approved.

Carried

8. Adjournment

The meeting was adjourned at 4:50 pm

Moved By John Klassen

Seconded By Bernie Law

BE IT RESOLVED THAT this Meeting of the Committee of Adjustment be adjourned until the next regular meeting scheduled for August 2, 2022 at 4:00 pm.

Carried

Don Cook, Chair

Assistant Secretary-Treasurer, Sarah Leach