

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 Mirynech advised that a previous application for the subject property was submitted and withdrawn with the intent to reduce the scale of the proposal and re-locate the placement of the garage closer to the existing dwelling.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