



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

Tuesday, December 06, 2022

**Minor Variance Application: A19-2022P**

**Municipal Address: 13 Arsenault Crescent**

**Legal Description: Part of Lot 171 and Lot 172, Town of Pelham**

**(Proposed Lot 10, 59M-XXXX)**

**Roll number: To be assigned**

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**Nature and Extent of Relief/ Permission Applied for:**

The subject land is an irregularly shaped parcel located on the west side of Klager Avenue, lying south of Port Robinson Road, being Part of Lot 171 and Lot 172 (Proposed Lot 10, 59M-XXX) in the Saffron Meadows Phase 3 Subdivision, in the Town of Pelham. The lot is proposed to be known locally as 13 Arsenault Crescent in the Town of Pelham.

The subject land is zoned Residential 2 Exception 290 (R2-290) in accordance with By-law No. 4138, as amended. Application is made to construct a single detached dwelling, and seeks for relief from:

- a. **Section 14.2(d) "Maximum Front Yard"**: seeking a maximum front yard setback of 8.5 metres to the dwelling front face, whereas a maximum of 5.5 metre setback 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)

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 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 (Adopted 2022)

The Region of Niagara adopted a new Official Plan on June 23, 2022. It was approved by the Province in November 2022.

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. The principle objective is to increase housing choice and housing affordability across the Region to meet future housing needs.

Policy 2.2.1.1 states that development in urban areas will integrate land use planning and infrastructure planning to responsibly manage forecasted growth and to support:

- a) the intensification targets in Table 2-2 and density targets outlined in this Plan (Note Pelham's intensification target is 25%);
- b) a compact built form, a vibrant public realm, and a mix of land uses, including residential uses, employment uses, recreational uses, and public service facilities, to support the creation of complete communities;
- c) a diverse range and mix of housing types, unit sizes, and densities to accommodate current and future market-based and affordable housing needs.

Policy 2.3.1.4 also provides that new residential development and residential intensification are encouraged to be planned and designed to mitigate and adapt to the impacts of climate change by:

- a) facilitating compact built form; and
- b) incorporating sustainable housing construction materials or practices, green infrastructure, energy conservation standards, water efficient technologies, and low impact development.

Planning staff are of the opinion the proposed variance confirms 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 Official Plan designates the subject lands as East Fonthill Secondary Plan Area – Low Density Residential. Policy B1.7.7.3 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. A single detached dwelling is a permitted use in the EF – Low Density Residential designation.

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 property is located within the Saffron Meadows Phase 3 subdivision. The proposed dwelling is aligned with the Urban Character objectives of the Official Plan.

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 2 Exception 290 (R2-290) in accordance with By-law No. 4138, as amended.

Under the regulations of the Zoning By-law, the minor variance application requests relief from:

- Section 14.2(d) "Maximum Front Yard": seeking a maximum front yard setback of 8.5 metres to the dwelling front face, whereas a maximum of 5.5 metre setback is permitted.

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	Test Response/Explanation
The variance is minor in nature.	<p>Yes. The requested variance is considered to be minor in nature.</p> <p>The variance seeks a maximum front yard setback of 8.5 metres to the dwelling front face, whereas a maximum of 5.5 metre setback is permitted. This represents an increased setback of 3.0 metres.</p> <p>The variance is considered minor as there will be no impacts on the streetscape, and there remains sufficient lot area to site the proposed dwelling on the lot. The variance is necessary due to the nature of the lot's irregular pie-shape. The standard zoning provisions of the subdivision's site-specific zoning do not enable the siting of the proposed dwelling on a pie-shaped lot, where the issue is not present on regular shaped rectangular lots.</p> <p>Staff are of the opinion that the requested variance is minor in nature.</p>
The variance is desirable for the development or use of the land.	<p>Yes. The requested variance is desirable for the development or use of the land.</p> <p>The requested variance seeks to increase the maximum front yard setback to the face of a dwelling. The standard zoning provisions of the subdivision's</p>

	<p>site-specific zoning do not enable the siting of the proposed dwelling to provide for a straight driveway. The variance is necessary to push the face of the dwelling further back to be able to provide for a straight driveway. The increased setback will maintained the original intent of the building design.</p> <p>Staff are of the opinion the variance is desirable for the development or use of the land.</p>
The variance maintains the general intent and purpose of the Zoning By-law.	<p>Yes. The variance maintains the general intent and purpose of the Zoning By-law.</p> <p>The requested variance seeks to increase the maximum front yard setback to the face of a dwelling. The intent of the maximum front yard setback is to enhance the streetscape through encouraging shallower front yard setbacks. Shallow front yards are intended to facilitate compact built form, increase safety through traffic calming and framing of the street, provide for eyes-on-the-street, and facilitate a human-scaled development. Further, it is the intent of the maximum front yard setback to ensure the face of the dwelling projects past the garage.</p> <p>As the subject parcel is pie shaped, the maximum front yard setback poses challenges for the siting of the proposed dwelling and driveway. A larger setback is required for the appropriate function of the driveway and to ensure the garage is setback further than the dwelling face. The increased front yard setback will maintain adequate side yard setbacks.</p> <p>Staff are of the opinion that that intent and purpose of the zoning by-law is maintained.</p>
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 Official Plan designates the subject lands as East Fonthill Secondary Plan Area – Low Density Residential. It is the intent of this designation to promote the development of complete communities through providing a range and mix of housing options, providing for access to neighbourhood retail services, and pedestrian-oriented street design. The proposed minor variance does not compromise these objectives – the intended streetscape of the Low Density designation is maintained.</p>

	Staff are of the opinion that the requested variance is not considered to have significant impacts within the context of the Official Plan. Staff are of the opinion the variance maintains the general intent and purpose of the Official Plan.
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### **Agency and Public Comments:**

On November 9, 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
  - A building permit is required for the proposed dwelling.
- Public Works Department
  - Please be advised that no side yard walkways that impede side yard swales shall be permitted.

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

### **Planning Staff Comments:**

The proposed variance seeks relief from the maximum front yard setback in the Residential 2 Exception 290 (R2-290) zone. The variance is necessary due to the nature of the lot as an irregular pie-shaped lot. Planning staff are of the opinion the increase in the front yard setback will not have any negative impact on the streetscape and that the intent of the building design will be maintained.

Based on the analysis given in above sections, including the Four Tests as outlined in Section 45(1) of the Planning Act, 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 A19/2022P **be approved** subject to the following condition(s):

**THAT** the applicant:

- Apply for and receive a Building Permit for the proposed dwelling.
- 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.

**Prepared and Submitted by:**

Andrew Edwards, BES  
Planner

**Recommended by:**

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