

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

Tuesday, December 06, 2022

Consent Application: B13-2022P**Municipal Address: 1399 Station Street****Legal Description: Part of Lots 14 and 15, Plan 717, designated as Part 1 on 59R-8459****Roll number: 2732 030 004 03100**

Location of Lands and Purpose of Application:

The subject parcel, shown as Part 2 on the attached sketch, is an interior parcel of land situated 57.50 metres east of Station Street, lying south of Summersides Boulevard being Part of Lots 14 and 15, Plan 717, designated as Part 1 on 59R-8459 in the Town of Pelham.

Application is made for consent to partial discharge of mortgage and consent to convey 1,938 square metres of land (Part 2), to be added to the abutting property to the south (Parts 4 and 5), for a future residential development. Part 1 is to be retained for continued residential use of the dwelling known municipally as 1399 Station Street. Part 3 is proposed to be retained as a residential building.

Note: the boundary adjustment will facilitate a future residential development.

Applicable Planning Policies:Planning Act

Section 51 (24) 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 things to:

- a) The development's effect on provincial matters of interest;
 - Refer to PPS 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 will facilitate a future residential development.
- 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;
 - Refer to analysis in Planning Analysis sections below.

- f) The dimensions and shapes of the proposed lots;
 - The dimensions and shapes of the lots following the boundary adjustment are appropriate.
- h) Conservation of natural resources and flood control;
 - There are no natural heritage features located on the subject lands.
- i) The adequacy of utilities and municipal services;
 - No issues with capacity are anticipated.
- 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.

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, however a boundary adjustment is not considered "development" under the PPS and therefore as there is no site alteration proposed, an archeological assessment is not required. The applicant is advised that any future *Planning Act* application involving the subject lands may require the completion of an archaeological assessment.

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

Greenbelt Plan (2017)

The Greenbelt Plan designates the subject lands as 'Settlement Areas Outside the Greenbelt.' As such, the policies of the Greenbelt Plan do not apply to the subject lands.

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.

Niagara Region Official Plan (2022)

The Region of Niagara adopted a new Official Plan on June 23, 2022 and was approved by the MMAH on November 4, 2022. The subject lands are within the Built Up Area of the Urban Area.

The ROP directs development to take place in urban areas to support intensified development where appropriate servicing and infrastructure exists. Provincial and Regional policy place an emphasis on intensification and infill to foster the development of complete communities, including a mix of diverse land uses and housing choices, expanding access to many forms of transportation, and providing spaces that are vibrant and resilient in design. The principle objective is to increase housing choice and housing affordability across the Region to meet future housing needs.

Policy Section 2.3.1 provides the policy direction with regards to a mix a housing options and specifically policy 2.3.1.1 states that the development of a range and mix of densities, lot and unit sizes, and housing types, including affordable and attainable housing, will be planned for throughout settlement areas to meet housing needs.

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

Regional staff did not object as the proposal does not conflict with Provincial or Regional interests and planning policy.

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 and Medium Density Residential in the East Fonthill Secondary Plan Area per Schedules A1 and A5 of the Official Plan. The lands are also subject to Section B1.1.4.

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;

- ✓ Satisfied. Both the severed and retained parcels will have direct access from a public road.
- b) Will not cause a traffic hazard as a result of its location on a curve or a hill;
 - ✓ No traffic hazards are anticipated.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
 - ✓ Satisfied.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
 - ✓ Satisfied. Both the severed and retained lot will have an appropriate water supply and means of sewage disposal.
- e) Will not have a negative impact on the drainage patterns in the area;
 - ✓ A lot grading / drainage plan will be required as a condition of approval.
- f) Will not affect the develop ability of the remainder of the lands, if they are designated for development by this Plan;
 - ✓ Satisfied. The proposed consent will facilitate a future residential development.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
 - ✓ There are no environmental features identified on the subject lands.
- h) Conforms with Regional lot creation policy as articulated in the Regional Policy Plan; and,
 - ✓ Satisfied. Regional staff did not object as the proposal does not conflict with Provincial or Regional interests and planning policy.
- i) Complies with the appropriate provincial Minimum Distance Separation Formulae, where applicable.
 - ✓ Not applicable.

Policy D5.2.2 sets the policy basis for boundary adjustments. The policy states: A consent may be permitted for the purpose of correcting conveyances, enlarging existing lots or through acquisition by a public body, provided no new building lot is created. In reviewing an application for a boundary adjustment, the Committee of Adjustment shall be satisfied that the boundary adjustment will not affect the viability of the use of the properties affected as intended by this Plan.

The viability of the both the benefiting and retained lands will be maintained. The viability of the benefiting lands is enhanced through a larger lot area for future residential development.

Town Planning staff are of the opinion the proposed lot boundary adjustment conforms to the local Official Plan.

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

The subject lands are currently zoned Residential 2 (R2) and Agricultural (A).

Any future development of the subject lands will continue to need to comply with their respective zoning regulations and permitted uses.

Agency and Public Comments:

On November 7, 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
 - No comments.
- Public Works Department
 - 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).
- Hydro One
 - No comments or concerns at this time.
- Bell Canada
 - Subsequent to review of the Consent Application by our local Engineering Department, it has been identified that Bell Canada will require a transfer of easement over these lands to protect existing aerial facilities, supply service to the properties, and to maintain service in the area. According to our records, Bell's aerial cable runs through Parts 1 3 and 4 as identified in the sketch provided.
 - Bell Canada would like to confirm that a blanket easement over the lands or a 3.0m wide corridor to be measured 1.5m on either side of the aerial cable, then to extend from the pole to a minimum of 1.0m past any anchor installation to be measured 0.5m on either side of the guy, as can be accommodated, would satisfy our needs.
 - Since the easement is necessary in order to provide and maintain service to this area, all costs associated with this transaction is the responsibility of the landowner. Compensation should be set to the nominal amount of \$2.00 for the acquisition of these rights. Additionally, Bell Canada requires separate, registered postponements for any mortgages and certification of title.

One (1) public comment was received at the time of writing this report which is summarized below.

- Rainer Hummel (Hummel Properties Inc.)
 - Supports the consent; Expressed support for the consent facilitating a development that will complement and complete the East Fonthill Area.

Planning Staff Comments:

Application is made for consent to partial discharge of mortgage and consent to convey 1,938 square metres of land (Part 2), to be added to the abutting property to the south (Parts 4 and 5), for a future residential development. Part 1 is to be retained for continued residential use of the dwelling known municipally as 1399 Station Street. Part 3 is proposed to be retained as a residential building.

A pre-consultation meeting was held with the applicant of the property and staff from the Town and Niagara Region Planning & Development Services on May 6, 2021 to discuss the subject application. In addition, a consent sketch and planning justification brief was provided in support of the proposed development.

Based on the analysis in the sections above, Planning staff is of the opinion that the proposed boundary lot adjustment is consistent with the PPS and conforms to Provincial, Regional, and local plans. The resulting parcels comply with applicable Zoning By-law regulations and should not negatively impact the surrounding neighbourhood with respect to traffic, privacy, and stormwater management. The proposed boundary adjustment provides for land consolidation need for future residential development and, therefore it can be supported by Staff.

Planning Staff Recommendation:

Planning staff recommend that minor variance file B13/2022P **be approved** subject to the following condition(s):

THAT the applicant:

- Ensure Part 2 merges on title with Parts 4 and 5.
- That the applicant agree to transfer a blanket easement over the lands or a 3.0m wide corridor to be measured 1.5m on either side of the aerial Bell cable, then to extend from the pole to a minimum of 1.0m past any anchor installation to be measured 0.5m on either side of the guy to Bell Canada.
- 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.
- That the existing sheds on Parts 2 and crossing into Part 1 will be removed.
- That the applicant prepare a tree preservation plan to the satisfaction of the Director of Community Planning and Development.
- 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 (Note: the fees may increase January 1st, 2023.), 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