

Committee of Adjustment**Minutes**

Meeting #: CofA 11/2022
Date: Tuesday, November 1, 2022
Time: 4:00 pm
Location: Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

Members Present Donald Cook
Bernie Law
Brenda Stan

Members Absent John Klassen
Sandra Marsh

Staff Present Andrew Edwards
Sarah Leach
Jacquie Miller
Barb Wiens
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 A14/2022P - 14 Wellington Court

Purpose of the 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.

Representation

The Agent, Syed Ahmed was electronically present.

Correspondence Received

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Tove Bowman
5. Dilio Lostracco
6. David Atkinson
7. Donna Huxley and Mal Ireland
8. Lauren and John Janssen
9. Memo from the Planning Department dated November 1, 2022

Applicants Comments

The Agent, Mr. Syed Ahmed stated he agreed with the contents of the planning recommendation report.

Public Comments

Ms. Sarah Leach, Assistant Secretary Treasurer stated there was no pre-registered members of the public. Ms. Leach indicated she checked the clerks@pelham.ca email address at 4:19 pm and confirmed no e-mails have 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 Brenda Stan

THAT the public portion of the meeting be closed.

Carried

Member Comments

A Member expressed concern with the grading of the property in relation to neighboring properties and indicated they could not locate a swale during the site visit. The Member expressed the importance of ensuring that drainage does not negatively impact neighboring properties.

A Member expressed concern with the existing restrictive covenant on title. The Member asked how much larger the sunroom structure would be over the existing rear yard patio. The Agent, Mr. Ahmed indicated the addition would be roughly the same size. The Member asked if the owner was aware of the restrictive covenant on title. Mr. Ahmed confirmed. The Member stated they do not like to see amenity areas reduced.

A Member expressed concern with drainage. Mr. Ahmed assured that drainage would not be a concern.

A Member asked if the existing patio was made of stone. Mr. Ahmed informed the existing patio is made of wood.

A Member asked who is responsible for approving the drainage plan. Ms. Barb Wiens, Director of Community Planning and Development responded that the submitted Lot Grading and Drainage Plan would be prepared by a professional and approved by Town staff prior to the issuance of a building permit.

A Member asked if there is an existing drainage plan on file for the property. Ms. Wiens indicated that an approved drainage plan accompanies the development agreement from 1999. The Member asked that if there are any alterations resulting from the drainage plan being prepared, if the implementation of such changes would be checked in the field. Ms. Wiens confirmed. The Member asked if such requirements would be subsequent to the issuance of a building permit. Ms. Wiens

confirmed. The Member indicated that although future drainage problems would be a civil matter, the Town would have an approved drainage plan to reference. The Member further indicated that the Town is actively engaged in drainage.

A Member stated they could not support the application due to the drainage issue, the oversizing of patio and the reduction in rear yard amenity area.

Moved By Brenda Stan

Seconded By Bernie Law

THAT application A14/2022P for relief of Section 16.3(g) “Minimum Rear Yard” – to permit a minimum rear yard setback of 3.96m 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 no adverse impacts are anticipated on abutting properties. The variance does not change the use of the site nor does it substantially alter the functionality of the amenity space.**
- 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 single storey sunroom structure which will not result in shadowing, will allow for the continued use of the rear and side yard as private amenity space and will not alter the function of the subject property.**
- 5. This application is granted without prejudice to any other application in the Town of Pelham.**
- 6. 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 obtained 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. That the Applicant 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.

Carried

6. Applications for Consent

6.1 B11/2022P - 1053 Pelham Street (Part 3)

Purpose of the Application

Applications B11/2022P and B12/2022P were heard concurrently.

Application B11/2022P 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 B12/2022P 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.

Representation

The Agent, William Heikoop of Upper Canada Consultants and Builder, Lou Biagi 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
6. David and Jan Wininger
7. Keith Lewis
8. Tammy and Craig Schmidt
9. Patricia Mazereeuw
10. Cindy Johnson

Applicants Comments

The Agent, Mr. William Heikoop stated the proposal is to create two new lots which would accommodate two single-detached dwellings within a building envelope of approximately 1900 square feet. Mr. Heikoop stated the lot sizes are over 6500 square feet and are in-keeping with the community character. Mr. Heikoop expressed agreeance with the proposed conditions.

Public Comments

Ms. Rose and Mr. Mark Iamonaco stated they object to the proposal for the reasons contained within the written correspondence. Ms. Iamonaco stated the proposal changes the scope of the neighborhood and the current standards. Mr. Iamonaco asked what kind of homes would be built. Mr. Heikoop responded that detailed house designs would follow approval. Mr. Heikoop stated the severance sketch outlines the building envelope based on what the zoning permits. Mr. Heikoop stated the land is proposed to be purchased by a custom home builder who would build for each individual purchaser. Mr. Heikoop further indicated the lots would be approximately 1900 square feet which would permit a bungalow.

Ms. Iamonaco expressed a safety concern with additional traffic down Homestead Boulevard as well as the additional entranceways.

Ms. Patricia Mazereeuw indicated she liked the small town feel and openness of the area. Ms. Mazereeuw expressed concern with the location of the proposed driveways and indicated that she and her neighbours would experience a blind spot while exiting their driveways. Ms. Mazereeuw informed there is an existing safety concern from cars

and bicycles speedily entering Homestead Boulevard from Pelham Street. Ms. Mazereeuw indicated the intersection of Pelham Street and Welland Road exacerbates this issue as cars speed up to get through the intersection. Ms. Mazereeuw stated that creating a driveway closer to the corner creates a dangerous situation for those exiting their driveways.

Ms. Mazereeuw stated the subdivision has two ways to enter and exit which have both experienced an increase in traffic and speeding as a result of development in the area. She stated another driveway would exacerbate this issue. Ms. Mazereeuw stated the median in the middle of the street on Homestead Boulevard creates a further safety hazard as individuals on bicycles or in cars have no room to move out of the way for those exiting their driveway without a clear sightline.

Ms. Mazereeuw expressed concern that the proposed lots are small and close together. Ms. Mazereeuw stated the proposal does not fit with the integrity of the neighborhood as existing homes have larger green space and separation. Ms. Mazereeuw expressed dissatisfaction that only the proposed building envelope was circulated. She indicated she could not determine her level of support without knowing the proposed housing type and height.

Ms. Mazereeuw expressed concern regarding privacy and sightline obstruction if the housing type was to include multiple stories. She further expressed concern that her property value will decrease. Additionally, Ms. Mazereeuw expressed fear that the home on the remnant parcel could be demolished in the future to build additional housing.

Ms. Sarah Leach, Assistant Secretary Treasurer stated that Mr. Keith Lewis emailed the clerks@pelham.ca email address reiterating his concerns regarding drainage as outlined within his written submission.

Mr. Heikoop indicated the buildings would be single-storey. He further indicated that the garage will likely be demolished and clarified that 20 metres exists between the median on Homestead Boulevard and the proposed driveways. Mr. Heikoop inferred ample space exists for turning and backing up. With respect to traffic, Mr. Heikoop stated that Public Works reviewed the proposal and offered no concern. Mr. Heikoop stated the width of the dwellings and lot sizes are comparable to the surrounding area. He further stated a Lot Grading and Drainage Plan is required as a condition of approval which would ensure that safeguards are in place to properly deal with drainage. With respect to privacy, Mr. Heikoop stated that there is an 18 metre rear yard setback proposed which is ample. Mr.

Heikoop clarified that the side yard setback is six feet, leaving a distance of 12 feet between houses which is a modern standard. Mr. Heikoop indicated that grading issues would be addressed as a condition of approval.

Proposed Builder, Mr. Lou Biagi stated that a driveway on Homestead Boulevard was not intended for the retained lot. Mr. Biagi indicated intention for the homes to be bungalows and assured the custom buildings would be in conformity with surrounding homes on Homestead Boulevard.

Ms. Leach indicated she checked the clerks@pelham.ca email address at 5:12 pm and confirmed no further e-mails have been received with regard to the subject applications. 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 Brenda Stan
Seconded By Bernie Law

THAT the public portion of the meeting be closed.

Carried

Member Comments

A Member expressed concern with respect to the adverse impact of drainage on surrounding properties and suggested building a wall between properties. Mr. Heikoop responded that a rear yard catch basin will need to be installed to take water to the storm sewer on Homestead Boulevard. Mr. Heikoop stated this would be the most appropriate way to collect water and convey it to the proper water outlet, as opposed to the installation of a wall. Mr. Heikoop stated the intent of the Lot Grading and Drainage Plan condition is to address such issues.

A Member recommended the existing garage on the remnant parcel be re-located at least 10 metres from the northerly property line. Mr. Biagi responded that it is the intention to demolish the garage without future replacement. The Member expressed concern with ingress and egress. Mr. Biagi indicated that they are willing to work with neighbours to improve sightlines, satisfy concerns and situate the driveway where required. The Member reaffirmed concerns with ingress and egress from the proposed lots noting their close proximity to Pelham Street. The Member stated there is an increased risk due to the volume of traffic and explained that it

is a common recommendation to consolidate driveways on arterial roads as opposed to creating new ones. The Member asked if there is sufficient room in the front yard to provide for a turnaround. The Member stated they would prefer one conveyance on this lot as two creates a risk to both the purchasers and the driving public.

The Member further expressed concern with drainage on Lot 177 and indicated they would not want the problem to be exacerbated due to the proposed development. The Member additionally stated they would like to see a larger side yard setback. The Member expressed they do not believe the severances are compatible with the existing neighborhood and stated they could not support the consent or minor variance applications with the present configuration. Mr. Heikoop indicated the dwellings on the opposite side of Homestead Boulevard are approximately 14 metres wide which is a one foot difference from the proposal. Mr. Heikoop stated the houses and lot sizes are very comparable within the area. In response to the proposed driveway concern, Mr. Heikoop indicated there is an existing driveway closer to the Quaker Road and Pelham Street intersection. Mr. Heikoop stated Public Works reviewed the driveway locations and indicated no concern side from requesting the corner lot be situated on Homestead Boulevard. Mr. Heikoop stated he disagreed with the Members position and expressed the proposal is appropriate for the area and represents good planning. Mr. Heikoop further stated the two lots are generous in size from a modern comparison. Mr. Heikoop ensured that drainage would be addressed through the conditions of approval and indicated that the existing storm sewer at 1050 Homestead Boulevard is adequately sized to accommodate the runoff from this property.

The Member agreed the current lot is underutilized and stated their preference is one conveyance to achieve softer intensification and maintain the vision of the Town. Mr. Heikoop responded that the proposal complied with the Town's Official Plan and therefore meets the vision of the Town. Mr. Heikoop indicated one conveyance would not meet the minimum threshold for density requirements. He further stated the proposal is a prime opportunity to provide housing with a large amenity area and a maximized building envelope.

A Member asked for a response to the suggestion of a turnaround allowing the homeowner to drive out onto Pelham Street. Mr. Heikoop indicated the concept could be investigated but noted this would result in the homes being pushed back onto the lot which is contrary to the policy perspective to bring the houses forwarded and narrow the view corridor.

The Member stated they would be in favour of the proposal, inclusive of a turnaround. Another Member supported the proposal of turnaround or additional setback to a garage. The Member further expressed hope that comments regarding ingress and egress are considered and indicated a condition requiring a turnaround would not be necessary.

While reiterating concern for the safety of drivers, a Member indicated support of the proposal following Mr. Heikoop's comments.

Lastly, Mr. Heikoop indicated that the Lot Grading Plan may help Mr. Lewis' lot significantly as the development will introduce a swale.

Moved By Bernie Law

Seconded By Brenda Stan

THAT Application B11/2022P 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, is hereby: GRANTED

THAT Application B12/2022P 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, is hereby: GRANTED

The above decisions are subject to the following conditions:

To the Satisfaction of the Director of Public Works

- 1. 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.**
- 2. That the applicant submit an overall Lot Grading & Drainage Plan, inclusive of tree location, demonstrating that the drainage neither relies, nor negatively impacts neighbouring properties, to the satisfaction of the Director of Public Works, or designate.**

3. That the applicant prepare and submit a Tree Preservation Plan, to the satisfaction of the Director of Public Works, or designate.
4. That the applicant obtain a Driveway Access and Culvert Permit from the Town for the construction of all new driveways or any modifications to existing driveways/entrances. Installation and/or modification of new entrances shall be completed in accordance with Town Standards and the Applicant shall bear all costs associated with the works.
5. That the applicant prepare and submit a Servicing Plan illustrating that the lot is independently serviced and does not rely on neighbouring properties.

To the Satisfaction of the Director of Community Planning & Development

1. That all necessary zoning approvals be obtained for Part 3.
2. That the applicant conduct a Stage 1-2 Archaeological Assessment prepared by a licensed archaeologist. The applicant shall receive clearance from the Ministry of Heritage, Sport, Tourism & Culture and provide a copy of the acknowledgement letter from the Ministry of Heritage, Sport, Tourism & Culture Industries advising that the site has been cleared of archaeological resources to the satisfaction of Director of Community Planning and Development and the Niagara Region.

To the Satisfaction of the Niagara Region

1. That the applicant apply for a Regional Connection Permit for the sanitary sewer lateral required for the lot (Part 3) and prepare the required plan and profile drawing for Niagara Regional approval.

To the Satisfaction of the Secretary-Treasurer

1. That application for consent, file B11/2022P receive final certification of the Secretary-Treasurer concurrently with application B12/2022P.

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. 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.
4. The applicant is aware that a building permit is required for the proposed building.
5. The applicant is aware that zoning deficiencies are required to be corrected.

Carried

6.2 B12/2022P - 1053 Pelham Street (Part 2)

Application B12/2022P was heard concurrently with application B11/2022P. See application B11/2022P for minutes and decision.

5.2 A15/2022P - 1053 Pelham Street (Part 3)

Purpose of the Application

Applications A15/2022P and A16/2022P were heard concurrently.

Application A15/2022P 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.

Application A16/2022P 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.

Representation

The Agent, William Heikoop of Upper Canada Consultants and Builder, Mr. Lou Biagi were electronically present.

Correspondence Received

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Keith Lewis
5. Tammy and Craig Schmidt
6. Patricia Mazereeuw
7. Cindy Johnson

Applicants Comments

The Agent offered no additional comments.

Public Comments

Ms. Sarah Leach, Assistant Secretary Treasurer indicated she checked the clerks@pelham.ca email address at 5:55 pm and confirmed no e-mails have been received with regard to the subject applications. 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 Brenda Stan

THAT the public portion of the meeting be closed.

Carried

Member Comments

The Members offered no additional comments or questions.

Moved By Bernie Law

Seconded By Brenda Stan

THAT Application A15/2022P 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, is hereby: GRANTED;

THAT Application A16/2022P 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. is hereby: GRANTED;

The above decisions are based on the following reasons:

- 1. The variance is minor in nature as no adverse impacts are anticipated. The resulting built form is consistent with the existing neighbourhood from a land use, orientation and massing perspective and is considered an appropriately sensitive form of infill redevelopment.**
- 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 allow for the development of a single detached residential dwelling in the low density R1 zone.
5. This application is granted without prejudice to any other application in the Town of Pelham.
6. 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 decisions are subject to the following conditions:

1. That the approval of the minor variances A15/2022P and A16/2022P are subject to the final certification of Consent File B11/2022P and B12/2022P.

Carried

5.3 A16/2022P - 1053 Pelham Street (Part 2)

Application A16/2022P was heard concurrently with application A15/2022P. See application A15/2022P for minutes and decision.

7. Minutes for Approval

Moved By Donald Cook

Seconded By Bernie Law

THAT the Committee of Adjustment Hearing minutes of July 5, 2022, be approved.

Carried

8. Adjournment

The meeting was adjourned at 5:59 pm.

Moved By Bernie Law

Seconded By Brenda Stan

BE IT RESOLVED THAT this Meeting of the Committee of Adjustment be adjourned until the next regular meeting scheduled for December 6, 2022 at 4:00 pm.

Carried

Don Cook, Chair

Sarah Leach, Assistant Secretary-Treasurer