

Committee of Adjustment AGENDA

CofA 01/2023

January 11, 2023

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.

3. **Disclosure of Pecuniary Interest and General Nature Thereof**
4. **Requests for Withdrawal or Adjournment**
5. **Applications for Minor Variance**

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

Wednesday, January 11, 2023

Minor Variance Application: A1-2023P

Municipal Address: 79 Canboro Road

Legal Description: Part of Lot 85 on Plan 717

Roll number: 2732 020 001 00400

Nature and Extent of Relief/ Permission Applied for:

The subject land is located on the north side of Canboro Road, lying south of Highway 20 West, legally described above, and known locally as 79 Canboro Road in the Town of Pelham. The parcel is approximately 619.8 m² in area and currently supports a single detached dwelling and detached garage on full municipal services.

The subject land is zoned Residential One (R1) in accordance with Pelham Zoning By-law 1136(1987), as amended. Application is made to construct an attached garage and outdoor covered patio. The application seeks for relief from:

- a) Section 13.2 (c) seeking a maximum lot coverage of 35% whereas 30% is required;
- b) Section 13.2 (d) seeking a minimum front yard setback of 6.0m whereas 7.7m is required; and,
- c) Section 13.2 (e) seeking a minimum interior side yard setback of 1.2m whereas 1.8m 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 (2022)

The subject lands are located in an urban settlement area according to the Regional Official Plan. The subject lands are designated as built-up area. Built-up areas are to be the focus of development and are to have a mix of land uses.

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.

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.

The proposed minor variances should not compromise drainage, privacy or sensitive natural heritage features and are generally 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 One (R1) according to Town of Pelham Zoning By-law No. 1136. Under the regulations of the Zoning By-law, the minor variance application requests relief from:

- a) Section 13.2 (c) seeking a maximum lot coverage of 35% whereas 30% is required.

- b) Section 13.2 (d) seeking a minimum front yard setback of 6.0m whereas 7.7m is required.
- c) Section 13.2 (e) seeking a minimum interior side yard setback of 1.2m whereas 1.8m is required.

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 variances are considered to be minor in nature.</p> <p>The increased lot coverage is minimal given the lot and surrounding context. The increased coverage amounts to approximately 5%. Given the surrounding urban context, the increased lot coverage is considered minor in nature.</p> <p>The front yard is proposed to be reduced by 1.7 metres, representing a reduction of approximately 22%. The proposed attached garage will maintain a front yard setback of 6.0 metres. The surrounding neighbourhood is characterized by dwellings of similar frontages and setbacks. It is noted that the proposed garage addition will be setback behind the dwelling to the west.</p> <p>The interior side is proposed to be reduced by 0.6 metres, representing a reduction of approximately 33%. An interior side yard setback of 1.2 metres will be maintained. It is noted that the existing board fence along the west property line will be maintained.</p> <p>The variances are considered minor as they do not change the use of the site, nor do they substantially alter the functionality of the amenity space of the parcel. Also, the outdoor living structure and garage addition are of a height and mass that would not adversely impact abutting properties.</p> <p>Staff are of the opinion that the proposed variances are minor in nature.</p>
The variance is desirable for the development or use of the land.	Yes. The requested variances are considered to be desirable for the appropriate development or use of the land.

	<p>The requested variances are not anticipated to have negative impacts on the streetscape or adjacent properties. The increase in lot coverage is desirable as it will permit design flexibility for an attached garage addition and outdoor living structure that while covered is open on two sides and maintains adequate rear yard amenity area. The proposed development is compatible with the existing dwelling and the built form of the area. 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 variances are appropriate and desirable as it will not result in shadowing on adjacent properties, will allow for the continued use of the rear yard as private amenity space, will not alter the function of the subject property, and are not anticipated to alter the streetscape in a significant way.</p> <p>Staff is of the opinion the requested 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 requested variances are considered to maintain the general intent and purpose of the Zoning By-law. The property is zoned Residential 1 (R1) according to By-law 1136 (1987), as amended.</p> <p>The intent of the maximum lot coverage provision of the By-law is to maintain adequate space for landscaping, leisure, drainage, and to maintain neighbourhood streetscapes and compatibility. The increased coverage is not anticipated to have a significant visual impact and there remains adequate rear yard amenity space to service the dwelling.</p> <p>The intent of the minimum front yard is to ensure adequate separation from the street and to ensure compatibility with adjacent land uses. The decreased front yard setback is not anticipated to have a significant impact on the streetscape and parking will continue to be provided.</p> <p>The interior side yard setback is intended to maintain access to side yards, provide adequate distance between dwellings, and provide to provide adequate room for drainage. There is an existing detached garage and driveway on the east side of the property, which provides for separation from the adjacent parcel and access to the</p>

	<p>rear yard. The attached garage is proposed on the west side of the property. The variance is necessary to provide adequate space for the addition.</p> <p>The requested setbacks are considered to provide sufficient space which ensures an aesthetic and functional design for the front and side yards and still maintain drainage along the side yard.</p> <p>Staff are of the opinion the proposed variance maintains the general intent and purpose of the Zoning By-law.</p>
The variance maintains the general intent and purpose of the Official Plan.	<p>Yes. The requested variances are considered to maintain the general intent and purpose of the Official Plan.</p> <p>The surrounding neighbourhood is generally characterized by one to two storey single detached dwellings. The Official Plan states that development 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>Staff are of the opinion that the requested variance is not considered to have significant impacts within the context of the Official Plan policies. The proposed attached garage and outdoor living structure is compatible with and generally in keeping with the low-density residential character of the neighbourhood.</p> <p>The proposal is generally consistent in built form, scale, and massing with existing development and the character of the area.</p> <p>Staff is of the opinion that the variance maintains the general intent and purpose of the Official Plan.</p>

Agency and Public Comments:

On December 14, 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
 - This will require two building permits. One for the proposed covered sitting area and one for the proposed attached garage.

- If the proposed rear deck is higher than 600mm (23 5/8"), it will require a building permit that will be included in the garage permit.
- Public Works Department
 - Public Works does not support the increase in maximum coverage and the reduction in the interior side yard setback due to the existing/proposed grades and notes the drainage plan does not mitigate potential surface water runoff from impacting adjacent properties. Public Works staff have requested that as a condition of minor variance approval, an overall lot grading and drainage plan demonstrating no adverse impact on adjacent properties be submitted for review and approval.

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

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 subject to the submission and approval of an overall lot grading and drainage plan.

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 A1/2023P **be approved** subject to the following condition(s):

THAT the applicant:

- Apply for and receive a building permit for both the attached garage addition and outdoor living structure.
- Town of Pelham Public Works Staff require that the applicant submit an overall lot grading and drainage plan demonstrating no adverse impact on adjacent properties be submitted for review and approval to the satisfaction of the Director of Public Works.

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; Lucas Smith, Engineering Technologist; Sarah Leach, Deputy Clerk

From: Gimuel Ledesma, Engineering Technologist

Date: December 28, 2022

File No: A1/2023P

RE: Minor Variance – 79 Canboro Road

The Public Works Department has reviewed the submitted documentation regarding the proposed minor variance of 79 Canboro Road. Application is made for relief, to construct an attached garage addition and detached covered patio from:

Section 13.2(c) “Maximum Lot Coverage” – to permit a maximum lot coverage of 35% whereas the bylaw allows 30%; and

Section 13.2(d) “Minimum Front Yard” – to permit a minimum front yard setback of 6.0m whereas the by-law requires 7.7m; and

Section 13.2(e) “Minimum Interior Side Yard” – to permit a minimum interior side yard setback of 1.2m whereas the by-law requires 1.8m.

Public Works offer the following comments:

- Public Works does not support the increase in maximum coverage and the reduction in the interior side yard setback due to the existing/proposed grades and drainage does not mitigate potential surface water runoff impacting adjacent properties.

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: Sarah Leach

Cc: Andrew Edwards

From: Belinda Menard, Building Inspector/Plans Examiner
Community Planning & Development

Date: December 16, 2022

Subject: Building Comments on Applications to the Committee of Adjustment for
Minor Variance hearing. – 79 Canboro Road, Pelham
File Number: A1-2023P

Comment:

- This will require two building permits. One for the proposed covered sitting area and one for the proposed attached garage.
- If the proposed rear deck is higher than 600mm (23 5/8"), it will require a building permit that will be included in the garage permit.

Respectfully,
Belinda Menard, Dipl., Constr. Eng. Tech.
Building Inspector



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

Wednesday, January 11, 2023

Minor Variance Application: A2-2023P

Municipal Address: 261 Canboro Road

Legal Description: Part of Lot 5, Concession 8, Being Part 3 on Plan 59R-8085

Roll number: 2732 020 010 11210

Nature and Extent of Relief/ Permission Applied for:

The subject land is located on the north side of Canboro Road, lying east of Effingham Street, legally described above, and known locally as 261 Canboro Road in the Town of Pelham. The subject lands are approximately 4,624 square metres (0.4624 hectares) in area and currently support a single detached dwelling, accessory structure, and private septic system.

The subject land is zoned Agricultural (A) in accordance with Pelham Zoning By-law 1136(1987), as amended. Application is made to construct a 103.63 m² (1,115.5 ft²) rear addition to an existing single detached dwelling. The variance seeks relief from:

- a. **Section 7.4(f) "Minimum Side Yard":** Seeking a minimum side yard of 4.38 metres whereas a minimum of 9.0 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 lands are within the Provincial Agricultural System and are considered a “Speciality Crop Area.” Permitted uses, among others, include agricultural/agricultural related uses, limited residential development and home occupations.

Policy 2.6.2 of the PPS does not permit development and site alteration on lands containing archaeological resources unless significant archaeological resources have been conserved. The lands are identified as displaying composite archaeological potential per the Town’s Archaeological Master Plan. The subject lands have recently undergone extensive ground disturbance. Accordingly, an archaeological assessment will not be required.

Provincial and Regional policies aim to protect agricultural land for long-term agricultural use. Specifically, Section 2.3 “Agriculture” of the PPS sets the policy framework for prime agricultural areas. Policy 2.3.6.1 permits limited non-agricultural uses in prime agricultural areas. Planning staff note that the property is 4,624 m² in land area, is not farmed and is considered to be a rural residential lot at this time.

Staff are of the opinion that the proposed variance is consistent with the Provincial Policy Statement.

Greenbelt Plan (2017)

The subject lands are located within the protected country designation of the Greenbelt Plan.

The subject lands are within the Provincial Natural Heritage System of the Greenbelt Plan, which identifies this feature as a Key Natural Heritage Feature (KNHF) and is subject to the natural heritage policies of the Greenbelt Plan.

Greenbelt Plan policy 3.2.5.5 requires the completion of a Natural Heritage Evaluation when new development and/or site alteration is proposed within 120 metres of a Key Natural Heritage Feature. Greenbelt policy 3.2.5.7 requires a minimum 30 metre vegetative protection zone (VPZ) adjacent to key natural heritage features. Greenbelt Plan policy 4.5.4 permits expansions to existing buildings and structures provided that the use does not expand into the KNHF or the VPZ unless there is no alternative, in which case any expansion shall be limited in scope and kept within close geographical proximity to the existing structure.

The proposed addition fulfills the intent of these policies, and as such Town and Regional staff are supportive of waiving the requirement for a Natural Heritage

Evaluation. The proposed addition is within the existing development footprint, and therefore is not anticipated to negatively impact the significant woodland. The proposed addition is connected to the existing dwelling and is relatively small in scale given the lot context.

Staff are of the opinion that the proposed variance does not conflict with the Greenbelt Plan.

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 lands are within the Specialty Crop Area in the Provincial Agricultural System under the A Place to Grow: Growth Plan for the Greater Golden Horseshoe. Prime agricultural areas, including speciality crop areas are intended to be protected for long term agricultural use.

Staff are of the opinion the proposed variance does not conflict with the Growth Plan.

Regional Official Plan (2022)

The Region's Official Plan designates the lands as within the Speciality Crop Area of the Region's Agricultural Land Base. Regional policies aim to protect agricultural land for the long-term.

The subject lands are impacted by the Region's Core Natural Heritage System (CNHS), consisting of Significant Woodland. The subject lands are within the Provincial Natural Heritage System of the Greenbelt Plan, which identifies this feature as a Key Natural Heritage Feature (KNHF) and is subject to the natural heritage policies of the Greenbelt Plan.

The Agricultural System of the Regional Official Plan set out provisions on the types of development that can occur on the subject lands.

The Region did not object to the variance. As such, planning staff are of the opinion 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 lands are designated Speciality Agricultural per Schedule 'A' of the Town's Official Plan. The purpose of the Specialty Agricultural designation is to implement the Greenbelt Plan and to recognize the importance of croplands. Single detached dwellings are a permitted use in the Specialty Agricultural designation.

Policy B2.1.2 states (among other uses) one single detached dwelling is permitted on a vacant lot of record. Planning staff note that the property is 4,624 m² in land area, is not farmed and the lot is a rural residential lot.

Planning staff are of the opinion 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 Agricultural (A) in accordance with Pelham Zoning By-law 1136 (1987), as amended, which permits one single detached dwelling on one lot. Under the regulations of the Zoning By-law, the minor variance application requests relief from:

- a. **Section 7.4(f) "Minimum Side Yard"**: Seeking a minimum side yard of 4.38 metres whereas a minimum of 9.0 metres is required.

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 reduced setback is a reduction of approximately 4.62 metres. The setback is not anticipated to have any negative impacts on the streetscape and is generally in keeping with the surrounding neighbourhood. The addition will not be visible from the street. A row of mature conifers is located along the eastern property line which are to be maintained and will screen the proposed addition.</p> <p>The use of the lands will remain appropriate and compatible with the surrounding area, which is characterized by single detached dwellings on rural residential lots.</p> <p>Staff are of the opinion that the proposed variance is minor in nature.</p>

<p>The variance is desirable for the development or use of the land.</p>	<p>Yes. The requested variance is considered to be desirable for the appropriate development or use of the land.</p> <p>The variance will facilitate a rear yard addition to the existing dwelling. The scale of the addition is in keeping with the character of the neighbourhood and will facilitate the development that meets the needs of the property owners. As such the variance is considered desirable for the development of the land. Further, the construction of the addition will not necessitate any tree removal on the subject lands.</p> <p>Staff is of the opinion the requested variance is desirable for the development or use of the land and will improve the functionality of the dwelling.</p>
<p>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 interior side yard setback is intended to maintain access to side yards, provide adequate distance between dwellings, and provide to provide adequate room for drainage.</p> <p>The variance is necessary to provide adequate space for the addition. The west side of the dwelling maintains a large setback to the western property line. The setback provides for adequate rear yard access and space should the existing septic system require an expansion. The neighbouring property to the east maintains a large setback to the property line, and as such no issues of compatibility are anticipated.</p> <p>Staff are of the opinion the proposed variance maintains the general intent and purpose of the Zoning By-law.</p>
<p>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 requested reduced side yard setback should have no impact on the agricultural viability of the surrounding area and will not compromise the objectives of the Official Plan, with respect to land use compatibility, storm water runoff and private sewage system servicing capabilities. The remaining lot area remains available to handle stormwater runoff, the existing septic system, and preserve a rear yard amenity area.</p>

	<p>The proposed built form of the addition is generally consistent in scale, and massing with existing development and the character of the residential area.</p> <p>Staff is of the opinion that the variance maintains the general intent and purpose of the Official Plan.</p>
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Agency and Public Comments:

On December 14, 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 will be required for this proposed addition, should the variance be granted.
- Public Works Department
 - No comments.
- Niagara Region Planning and Development Services
 - Regional staff are of the opinion that the proposed use is consistent with the PPS and conforms to Provincial and Regional policies.
 - Environmental Planning offers no requirements and no objection to the proposed minor variance application.
 - Based on a review of aerial photography, it appears that the portion of the property that will be impacted by the proposed development has been subject to recent, intensive and extensive ground disturbance as a result of the construction of the existing dwelling and in-ground pool. Accordingly, Regional staff will not require an archaeological assessment with the application.
 - Based on the information submitted for the minor variance application and subsequent correspondence, Regional PSS staff has determined that the proposed addition is consistent with the approved septic permit. As such, we have no objections to the proposed application.
 - Regional Planning and Development Services staff is not opposed to the development permit application as proposed, subject to the satisfaction of any local requirements.

One (1) public comment was received and is summarized as follows:

- Jim and Linda Addario
 - No objection to the variance as requested; stated they are aware of similar variance requests that have been approved in the area.

Planning Staff Comments:

Planning staff note that the property is approximately 4,624 m² in land area, is not farmed and is a rural residential lot. Adequate area and building setbacks are available to manage the drainage from the addition on-site without adversely impacting adjacent properties. The existing tree line will be maintained and the neighbouring property to the east maintains a generous setback, and as such visual impacts are minimized.

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 A2/2023P **be approved** subject to the following condition(s):

THAT the applicant:

- Apply for and receive a building permit for the proposed addition.

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; Lucas Smith, Engineering Technologist; Sarah Leach, Deputy Clerk

From: Gimuel Ledesma, Engineering Technologist

Date: December 28, 2022

File No: A2/2023P

RE: Minor Variance – 261 Canboro Road

The Public Works Department has reviewed the submitted documentation regarding the proposed minor variance of 261 Canboro Road. Application is made for relief, to construct a 1-storey dwelling addition, from:

Section 7.4(f) “Minimum Side Yard” – to permit a minimum side yard setback of 4.38m whereas the bylaw requires a minimum side yard setback of 9m.

Public Works offer the following comments:

No Comments

Public Works offer the following conditions:

No Comments

To: Sarah Leach

Cc: Andrew Edwards

From: Belinda Menard, Building Inspector/Plans Examiner
Community Planning & Development

Date: December 15, 2022

Subject: Building Comments on Applications to the Committee of Adjustment for
Minor Variance hearing. – 261 Canboro Road, Pelham
File Number: A2/2023P

Comment:

- A building permit will be required for this proposed addition, should the variance be granted.

Respectfully,
Belinda Menard, Dipl., Constr. Eng. Tech.
Building Inspector

Planning and Development Services

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7
905-980-6000 Toll-free: 1-800-263-7215

Via Email Only

January 3, 2023

File No.: D.17.06.MV-22-0135

Sarah Leach
Secretary Treasurer of the Committee of Adjustment
Town of Pelham
20 Pelham Town Square, P.O. Box 400
Fonthill, ON L0S1E0

Dear Ms. Wilford:

**Re: Regional and Provincial Comments
Application: Minor Variance
File No. A2/2023P
Owner: [REDACTED]
Address: 261 Canboro Road
Town of Pelham**

Regional staff has reviewed the information circulated for the above noted minor variance application to facilitate the construction of a one-storey dwelling addition on the subject property by permitting a minimum side yard setback of 4.38 metres whereas the Town's Zoning By-law requires a minimum side yard setback of 9 metres. The following Provincial and Regional comments are offered to assist the Committee in considering this application.

Provincial and Regional Policies

The Provincial Policy Statement (PPS) designates the subject property within a prime agricultural area, and more specifically as a specialty crop area. Such lands shall be protected for long-term use for agriculture, with specialty crop areas being given the highest priority for protection. The Greenbelt Plan designates the lands as within the Niagara Peninsula Tender Fruit and Grape Area as part of the policies of the Protected Countryside. The Niagara Official Plan (NOP) designates the property as within the Specialty Crop Area.

Provincial and Regional policies recognize that agricultural land is a valuable asset that must be properly managed and protected, and allow for a range of agriculture, agriculture-related and on-farm diversified uses. Given that the proposed application is

submitted to allow for an expansion to an existing single detached dwelling, Regional staff are of the opinion that the proposed use is consistent with the PPS and conforms to Provincial and Regional policies subject to the comments below.

Natural Heritage

The subject property is impacted by the Region's Natural Environment System (NES), consisting of significant woodland and the Fonthill Kame Delta Provincially Significant Earth Science ANSI. The property is also mapped as part of the Provincial Natural Heritage System (PNHS). As such, these features are considered Key Natural Heritage Features (KNHF).

Niagara Official Plan (NOP) Policy 3.1.5.7.1 requires the completion of an Environmental Impact Study (EIS) when development or site alteration is proposed within 120 metres of a KNHF. Further, NOP policies require that a minimum 30 metre Vegetation Protection Zone (VPZ) as measured from the outside boundary of a KNHF be established as natural self-sustaining vegetation. Development or site alteration is generally not permitted within a KNHF or its VPZ.

However, expansions to existing uses are permitted, provided they are limited in scope and in close geographical proximity to existing development. The proposed addition is within the existing development footprint and is no closer to the KNHF than the existing development. As such, the addition meets these requirements. Additionally, a VPZ is not possible due to the location of the existing gazebo. Environmental Planning offers no requirements and no objection to the proposed minor variance application.

Archaeological Potential

Schedule K of the NOP identifies the subject lands within an area that exhibits a high potential for the discovery of archaeological resources. Policy 6.4.2.6 of the NOP states 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 aerial photography, it appears that the portion of the property that will be impacted by the proposed development has been subject to recent, intensive and extensive ground disturbance as a result of the construction of the existing dwelling and in-ground pool. Accordingly, Regional staff will not require an archaeological assessment with the application.

Private Servicing

Regional Private Sewage System (PSS) staff has reviewed the proposed application. Regional records indicate that a private sewage system consisting of a septic tank and a double in ground filter bed (Class 4 system) was installed in 2021 with approval from our

January 3, 2023

department. The septic system was installed to handle the capacity of a one bedroom, 79 m² addition.

Based on the information submitted for the minor variance application and subsequent correspondence, Regional PSS staff has determined that the proposed addition is consistent with the approved septic permit. As such, we have no objections to the proposed application.

Conclusion

Regional Planning and Development Services staff is not opposed to the development permit application as proposed, subject to the satisfaction of any local requirements.

Should you have any questions or wish to discuss these comments, please contact the undersigned at alexandria.tikky@niagararegion.ca or 905-980-6000 extension 3593, or Pat Busnello, Manager of Development Planning, at pat.busnello@niagararegion.ca or at extension 3379.

Please send notice of the Committee's decision on this application.

Best regards,



Alexandria Tikky, MCIP, RPP
Senior Planner

cc: Pat Busnello, Manager, Development Planning, Niagara Region
Devon Haluka, Private Sewage Systems Inspector, Niagara Region
Andrew Edwards, Planner, Town of Pelham

From: [REDACTED]
Sent: Tuesday, December 20, 2022 1:45 PM
To: Holly Willford <HWillford@pelham.ca>
Subject: Minor Variance...A2/2023P 261 Canboro Rd.

Holly....We do not see any issues with the town approving the minor variance as requested. I am aware of many more side yard setback requests that have been approved in this area over the years.
Thanks...Jim And Linda Addario

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

Committee of Adjustment**Minutes**

Meeting #: CofA 12/2022
Date: Tuesday, December 6, 2022
Time: 4:00 pm
Location: Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

Members Present Donald Cook
John Klassen
Sandra Marsh

Members Absent Bernie Law
Brenda Stan

Staff Present Sarah Leach
Jacquie Miller
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 A17/2022P - 855 Twenty Road

Purpose of the Application

Application is made for relief, to construct a detached garage, from: Section 7.4(c) "Maximum Lot Coverage" – to permit a maximum lot coverage of 14.33% whereas the by-law allows 10%; and Section 7.7(a) "Maximum Lot Coverage (Accessory Structure)" – to permit a maximum lot coverage of 3.79% whereas the by-law allows a maximum lot coverage of 1% provided the maximum lot coverage of all buildings does not exceed 10%.

Representation

The Agent, Mr. San De Rose and Applicant, Mr. Wayne Farrow 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. NPCA
6. Briar Kostaskey

Applicants Comments

The Agent, Mr. Sam De Rose expressed support of the Planning Department recommendation report and requested positive consideration.

Public Comments

Ms. Sarah Leach, Assistant Secretary Treasurer indicated there were no pre-registered speakers. Ms. Leach stated she checked the clerks@pelham.ca email address at 4:14 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 John Klassen

Seconded By Sandra Marsh

THAT the public portion of the meeting is closed.

Carried

Member Comments

A Member asked for clarification regarding the neighbours written concerns. Mr. De Rose responded that the neighboring property is a long distance from the subject property and stated he does not foresee drainage issues. Mr. Farrow indicated the boundary issue is on-going and stated it is not related to the application before the Committee. Mr. De Rose stated there is no issue with the building placement. A Member agreed that the application is not related to a boundary dispute.

Moved By Sandra Marsh

Seconded By John Klassen

A17/2022P Application for relief of Section 7.4(c) “Maximum Lot Coverage” – to permit a maximum lot coverage of 14.33% whereas the by-law allows 10%, is hereby: GRANTED;

The above decision is based on the following reasons:

- 1. The variance is minor in nature as the increased coverage 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 design flexibility for an addition to an existing accessory structure while maintaining adequate rear yard amenity area.**

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.

A17/2022P Application for relief of Section 7.7(a) “Maximum Lot Coverage (Accessory Structure)” – to permit a maximum lot coverage of 3.79% whereas the by-law allows a maximum lot coverage of 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 no negative impacts are anticipated on the adjacent properties.
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 and new location of the structure will have a lesser impact on the floodplain and will be setback further from the locally significant wetland.
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 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.

Prior to Building Permit:

1. To the Satisfaction of the NPCA

1. **Apply and receive NPCA work permit for work in the floodplain and update the site plan drawing illustrating the location of erosion and sediment controls prior to any site works being undertaken**

Carried

5.2 A19/2022P - 13 Arsenault Cres

Purpose of the Application

Application is made for relief, to construct a single detached dwelling from: Section 14.2(d) "Maximum Front Yard" – to permit a maximum front yard setback of 8.5m to the dwelling front face whereas the by-law requires a maximum of 5.5m to the dwelling front face.

Representation

The Agent, Mr. William Heikoop of Upper Canada Consultants was electronically present.

Correspondence Received

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

Applicants Comments

The Agent, Mr. William Heikoop expressed support of the Planning Department recommendation report.

Public Comments

Ms. Sarah Leach, Assistant Secretary Treasurer indicated there were no pre-registered speakers. Ms. Leach stated she checked the clerks@pelham.ca email address at 4:30 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 Sandra Marsh

Seconded By John Klassen

THAT the public portion of the meeting is closed.

Carried

Member Comments

A Member asked if pushing the house back would allow more cars to park in the driveway. Mr. Heikoop indicated that it is conceivable to fit two cars in the driveway. Mr. Heikoop stated the intent of the proposal is to accommodate the proposed house design on a pie shaped lot.

A Member asked if the rear yard setback would become problematic if the homeowner wishes to install a covered deck. Mr. Heikoop responded there is no concern with the rear yard setback.

Moved By John Klassen

Seconded By Sandra Marsh

A19/2022P Application for relief of Section 14.2(d) “Maximum Front Yard” – to permit a maximum front yard setback of 8.5m to the dwelling front face whereas the by-law requires a maximum of 5.5m to the dwelling front face, is hereby: GRANTED;

The above decision is based on the following reasons:

- 1. The variance is minor in nature as there will be no impacts on the streetscape, and there remains sufficient lot area to site the proposed dwelling on the lot.**
- 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 variance is necessary to push the face of the dwelling further back to be able to provide for a straight driveway.**
- 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.**
8. **The applicant is aware no side yard walkways that impede side yard swales shall be permitted.**

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. **Submit an overall lot grading and drainage plan to demonstrate that the drainage does not negatively impact nor rely on neighboring properties.**

Carried

6. Applications for Consent

6.1 B7/2022P - 1112 Line Avenue

Consent files B7/2022P – 1112 Line Avenue and B8/2022P – 1114 Line Avenue were considered concurrently.

Purpose of the Application

Application B7/2022P is made for consent to partial discharge of mortgage and consent to convey 2242.3 square metres of land (Part 3), to be added to the abutting property to the west (Part 5), for future development. Part 4 is to be retained for continued residential use of the dwelling known municipally as 1112 Line Avenue.

Application B8/2022P is made for consent to partial discharge of mortgage and consent to convey 1626.5 square metres of land (Part 1), to be added to the abutting property to the west (Part 5), for future development. Part 2 is to be retained for continued residential use of the dwelling known municipally as 1114 Line Avenue.

Representation

The Agent, Mr. William Heikoop was 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

Mr. Heikoop offered no additional comments.

Public Comments

Ms. Sarah Leach, Assistant Secretary Treasurer indicated there were no pre-registered speakers. Ms. Leach stated she checked the clerks@pelham.ca email address at 4:41 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 Sandra Marsh

Seconded By John Klassen

THAT the public portion of the meeting is closed.

Carried

Member Comments

A Member asked for clarification with respect to the right of way. Mr. Heikoop confirmed there is an existing right-of-way. He stated the Town originally requested an easement for a pedestrian connection but the location was not in consideration to be sold by the owner of 1112 Line Avenue. Mr. Heikoop indicated that if future development was to occur, the Town reserves the right for the pedestrian connection should the owner wish to sell that portion of the property.

Mr. Derek Young, Manager of Engineering confirmed that the Lot Grading and Drainage Plan is to be requested for the remnant parcels being Part 2 and 4.

Moved By Sandra Marsh

Seconded By John Klassen

Application B7/2022P made for consent to partial discharge of mortgage and consent to convey 2242.3 square metres of land (Part 3), to be added to the abutting property to the west (Part 5), for future development. Part 4 is to be retained for continued residential use of the dwelling known municipally as 1112 Line Avenue; is hereby: GRANTED;

Application B8/2022P made for consent to partial discharge of mortgage and consent to convey 1626.5 square metres of land (Part 1), to be added to the abutting property to the west (Part 5), for future development. Part 2 is to be retained for continued residential use of the dwelling known municipally as 1114 Line Avenue; is hereby: GRANTED;

The above decisions are subject to the following conditions:

To the Satisfaction of the Director of Public Works

- 1. Submit a comprehensive Lot Grading & Drainage Plan for Part 2 and Part 4 demonstrating that the drainage neither relies, nor negatively impacts neighbouring properties, to the satisfaction of the Director of Public Works, or designate.**

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 west (Part 5 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 (per application), 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.

The above decisions are based on the following reasons:

1. The Applicant is aware that Part 2 on 59R-6922 is subject to right-of-way. As per Town of Pelham standards, no structures can be built on Town of Pelham right-of-way.
2. 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.
3. 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.
4. No objections to this proposal were received from commenting agencies or neighbouring property owners.
5. 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

6.2 B8/2022P - 1114 Line Avenue

Application B8/2022P was heard concurrently with application B7/2022P. See application B7/2022P for minutes and decision.

6.3 B13/2022P - 1399 Station Street

Purpose of the Application

Application is made for consent to partial discharge of mortgage and consent to convey 1938 square metres of land (Part 2), to be added to the abutting property to the south (Part 5), for future development. Part 1 is to be retained for continued residential use of the dwelling known municipally as 1399 Station Street.

Representation

The Representative, Mr. Stephen Bedford and Agent, Mr. James Frank were electronically present.

Correspondence Received

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Hydro One
5. Hummel Properties Inc.
6. Bell Canada
7. Hummel Properties Inc.

Applicants Comments

Mr. Stephen Bedford expressed support of the Planning Department recommendation report. With respect to the request from Bell Canada, Mr. Bedford indicated the applicant would be favorable of the 3m wide corridor option.

Public Comments

Ms. Sarah Leach, Assistant Secretary Treasurer indicated there were no pre-registered speakers. Ms. Leach stated she checked the clerks@pelham.ca email address at 5:01 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 John Klassen

Seconded By Sandra Marsh

THAT the public portion of the meeting is closed.

Carried

Member Comments

A Member asked if the ownership of Part 4 is already with Part 5. Mr. Frank confirmed that Part 4 has already merged with Part 5.

A Member asked for clarity on the applicant's preference with respect to the Bell Canada request. Ms. Leach, Assistant Secretary-Treasurer clarified that the condition is worded to provide the applicant the flexibility to choose either option. Mr. Frank was supportive of keeping the two options within the wording of the Bell Canada condition.

Moved By John Klassen

Seconded By Sandra Marsh

Application B13/2022P made for consent to partial discharge of mortgage and consent to convey 1938 square metres of land (Part 2), to be added to the abutting property to the south (Part 5), for future development. Part 1 is to be retained for continued residential use of the dwelling known municipally as 1399 Station Street; is hereby: GRANTED;

The above decision is 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.**

To the Satisfaction of the Director of Community Planning & Development

1. **That the existing sheds on Parts 2 and crossing into Part 1 will be removed, with any necessary demolition permits to be obtained.**
2. **Submit a tree preservation plan.**

To the satisfaction of Bell Canada

1. **Obtain approval for the conveyance of a perpetual blanket easement or 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. All costs associated with the transfer of easement, free and clear of all encumbrances, shall be borne solely by the applicant.

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 south (Part 5 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 John Klassen

Seconded By Donald Cook

THAT the Committee of Adjustment minutes dates October 2, 2018, October 30, 2018, June 5, 2019 and October 4, 2022 be and are hereby approved.

Carried

8. Adjournment

The meeting was adjourned at 5:06pm.

Moved By Sandra Marsh

Seconded By John Klassen

BE IT RESOLVED THAT this Meeting of the Committee of Adjustment be adjourned until the next regular meeting scheduled for January 11, 2023 at 4:00 pm.

Carried

Don Cook, Chair

Sarah Leach, Assistant Secretary-Treasurer