

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