



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

Monday, March 06, 2023

**Minor Variance Application: A3-2023P**

**Municipal Address: 788-792 Welland Road**

**Legal Description: Part of Lot 2, Plan 703 being Part 1 and 2 on Plan 59R-3703 and Part 1 on Plan 59R-8906, in the Town of Pelham**

**Roll number: 2732 010 015 10800 & 2732 010 015 10900**

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

The subject land is located on the south side of Welland Road, lying east of Church Street, legally described above, and known locally as 788 and 792 Welland Road in the Town of Pelham. The site is approximately 2,965 m<sup>2</sup> in area and currently supports the former Fenwick Fire Hall Fire Station #2.

The subject land is zoned Neighbourhood Commercial-262 "NC-262" in accordance with Pelham Zoning Amending By-laws 3718 (2016) and 3868 (2017), as amended. The subject lands were subject to previous Zoning By-law Amendment and Site Plan development applications (AM-02-2017; SP-03-17) which proposed the conversion of the existing structure into six (6) dwelling units and the construction of a mixed-use building along Welland Road, containing four (4) ground floor commercial units and four (4) residential dwelling units above grade for a total of ten (10) residential dwellings.

Application is made for relief to facilitate the construction of a second storey to the converted structure with an additional seven (7) dwelling units, facilitating a mixed-use building with four (4) commercial units at grade and a total of seventeen (17) residential dwelling units located above grade and to the rear of the site. A future Site Plan Amendment application will be required to facilitate the proposed changes. The variances seek relief from:

1. **Section 19.1 (c) "Permitted Uses"** – to permit second storey residential dwelling units above the ground floor dwelling units at side and rear yards, whereas the by-law permits residential dwelling units above grade above the commercial uses only;
2. **Section 19.3(a) "Regulations for Residential Uses"** – to permit 66% of the gross floor area to be used for residential uses whereas the by-law allows not more than 50% of the gross floor area to be used for dwelling units;
3. **Section 19.3(b) "Regulations for Residential Uses"** – to permit dwelling units above the ground floor dwelling units at side and rear yard whereas the by-law permits dwelling units above grade above commercial uses only;

4. **Section 19.3(c) "Regulations for Residential Uses"** – to permit a minimum landscaped amenity area of 25 m<sup>2</sup> per dwelling unit whereas the by-law requires a minimum landscaped amenity area of 30 m<sup>2</sup> be provided for each dwelling unit;
5. **Section 6.16(a) "Parking Requirements – Residential Uses"** – to permit 1.25 spaces per dwelling unit whereas the by-law requires 1.5 spaces per dwelling unit;
6. **Section 6.16(a) "Parking Requirements – Retail/Office Uses"** – to permit a rate of 1 space per 52 m<sup>2</sup> gross floor area whereas the by-law requires 1 space per 30 m<sup>2</sup>; and,
7. **Section 6.16(a) "Parking Requirements – Eating Establishment"** – to permit a rate of 1 space per 6 persons seating capacity whereas the by-law requires a rate of 1 space per 4 persons seating capacity.

### **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 parcel is within a 'Settlement Area' according to the PPS. Policy 1.1.3.1 states that settlement areas shall be the focus of growth and their vitality and regeneration shall be promoted. Policy 1.1.3.3 provides for the promotion of intensification and redevelopment accommodating a significant supply and range of housing options where it can be accommodated considering the building stock, availability of existing and planned infrastructure and public service facilities required to accommodate the needs of the development.

Planning staff are of the opinion the proposed variances are 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. Policy 2.2.2.3(b) encourages intensification generally throughout the built-up area and investment in services that will support intensification.

The policies under Section 2.2.6 of the Growth Plan support the achievement of complete communities through the provision of a full range of housing options and densities that meet current and future housing needs.

The proposed development is mixed use that will offer apartment residents easy access to local stores and services. In addition, it expands the commercial activity of Fenwick's downtown with the addition of four new commercial units and contributes to the housing stock of the Town. The proposed development contributes to the achievement of a complete community by providing additional and a wider range of commercial and residential uses within a settlement area.

Planning staff are of the opinion the proposed variances conform with the Growth Plan.

### Greenbelt Plan (2017)

The lands are located outside of the Greenbelt Plan and thus the policies of the Greenbelt Plan do not apply.

### Regional Official Plan (2022)

The subject lands are within 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 2.3.1.1 requires the development of a range and mix of densities, lot and unit sizes, and housing types, including affordable and attainable housing, to be planned for throughout settlement areas to meet housing needs at all stages of life.

## 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 mixed-use development as part of a complete community. The proposed development introduces new commercial uses into the surrounding area contributing to the orderly and efficient development of the area. The requested variances do not offend the policies of the Official Plan.

Per Section E1.5 of the Official Plan, in determining if whether a variance is minor as required in Item Four, Committee will have more regard for the degree of impact which could result from the relief and less regard to the magnitude of numeric or absolute relief sought by the applicant.

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 Neighbourhood Commercial Exception 262 (NC-262) according to amending By-laws 3718 (2016) and 3868 (2017). Under the regulations of the Zoning By-law, the minor variance application requests relief from:

1. **Section 19.1 (c) "Permitted Uses"** – to permit second storey residential dwelling units above the ground floor dwelling units at side and rear yards, whereas the by-law permits residential dwelling units above grade above the commercial uses only;
2. **Section 19.3(a) "Regulations for Residential Uses"** – to permit 66% of the gross floor area to be used for residential uses whereas the by-law allows not more than 50% of the gross floor area to be used for dwelling units;
3. **Section 19.3(b) "Regulations for Residential Uses"** – to permit dwelling units above the ground floor dwelling units at side and rear yard whereas the by-law permits dwelling units above grade above commercial uses only;
4. **Section 19.3(c) "Regulations for Residential Uses"** – to permit a minimum landscaped amenity area of 25 m<sup>2</sup> per dwelling unit whereas the by-law requires a minimum landscaped amenity area of 30 m<sup>2</sup> be provided for each dwelling unit;
5. **Section 6.16(a) "Parking Requirements – Residential Uses"** – to permit 1.25 spaces per dwelling unit whereas the by-law requires 1.5 spaces per dwelling unit;
6. **Section 6.16(a) "Parking Requirements – Retail/Office Uses"** – to permit a rate of 1 space per 52 m<sup>2</sup> gross floor area whereas the by-law requires 1 space per 30 m<sup>2</sup>; and,
7. **Section 6.16(a) "Parking Requirements – Eating Establishment"** – to

permit a rate of 1 space per 6 persons seating capacity whereas the by-law requires a rate of 1 space per 4 persons seating capacity.

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><u>Variance 1 – Permitted Uses (Permit Residential above Grade)</u></p> <p>Yes, the variance is considered minor in nature. Ground level commercial space is being maintained along the Welland Road frontage. Permitting second storey residential dwelling units on the side and rear yards is not anticipated to detract from the commercial function of the site, and as such is considered minor in nature. The residential units will be in the roof structure also minimizing the impact with regards to building height.</p>
	<p><u>Variance 2 – Regulations for Residential Uses (Residential GFA)</u></p> <p>Yes, the requested increase in residential GFA percentage is considered minor in nature. The requested increase from 50% to 66% represents an increase of approximately 16%. This increased GFA is considered minor in nature as ample commercial space exists fronting Welland Road and the primary function of the site as viewed from Welland Road appears commercial. The increased residential GFA is not anticipated to detract from the function of the lands as a commercial property. As such, the variance is considered minor.</p>
	<p><u>Variance 3 – Regulations for Residential Uses (Permit Residential above Grade)</u></p> <p>The permitted uses in the NC-262 zone (Section 19.1(c)) specify that dwelling units are permitted above ground floor commercial units, and at-grade in the side and rear yards. This requirement is reiterated in the zone requirements for residential uses (19.3(b)). As such, please refer to analysis of Variance #1.</p>
	<p><u>Variance 4 – Regulations for Residential Uses (Minimum Landscaped Amenity Area)</u></p> <p>Yes, the requested variance is considered minor in nature. The requested decrease from 30m<sup>2</sup> per dwelling unit to 25 m<sup>2</sup> per dwelling unit represents a decrease in landscaped amenity area of 5 m<sup>2</sup> per dwelling unit, or 85 m<sup>2</sup> in total (17 dwelling units x 5 m<sup>2</sup>).</p> <p>Each residential dwelling unit will maintain a private amenity area – in the form of patios for the ground floor units (8.36 m<sup>2</sup>) and balconies for the second storey units. In addition, Centennial Park is a short distance from the site providing active recreational space in proximity to the site. There remains ample amenity area to service the proposed dwelling units. As such, the variance is considered minor.</p>
	<p><u>Variance 5 – Parking Requirements (Residential Uses)</u></p> <p>Yes, the variance is considered minor in nature. The variance requests a reduction in the parking rate for residential dwelling units from 1.5 parking spaces per unit, to 1.25 parking spaces per unit. Seventeen (17) residential dwelling units are proposed on site, requiring a total number of 26 parking spaces at a rate of 1.5 parking spaces per unit. The proposed development is comprised of eleven (11) 1-bedroom units and six (6) 2-bedroom units. A total of 22 spaces are proposed to service the residential units, representing a rate of 1.25 spaces per unit. The variance represents a reduction of four (4) residential parking spaces in total. Each residential unit will have a dedicated parking space, in addition to five (5) additional spaces. In addition, the commercial parking spaces can be used as visitor spaces outside of business hours.</p>

	<p>A parking justification brief was prepared by BA Group and submitted along with the application. The brief found that the parking demands of the site can be accommodated on site based on a number of considerations, including: more than 1 space is available for the exclusive use of each dwelling unit.</p> <p>It is the opinion of planning staff that the variance is minor in nature.</p>
	<p><u><i>Variance 6 - Parking Requirements (Retail/Office Uses)</i></u></p> <p>Yes, the variance is considered minor in nature. The variance requests a reduction in the parking rate for retail/office uses to 1 space per 52 m<sup>2</sup> gross floor area, whereas the by-law requires 1 space per 30 m<sup>2</sup>. The site plan shows 306.7 m<sup>2</sup> of retail/office uses. At a rate of 1 space per 30 m<sup>2</sup>, 11 parking spaces would be required. At a rate of 1 space per 52 m<sup>2</sup>, six (6) spaces would be required. This results in a reduction of five (5) spaces. Given the relatively small commercial GFA, six (6) parking spaces in considered appropriate. Additionally, the Downtown Master Plan identifies Welland Road as being capable of providing up to 25 new on-street parking spaces, including four across the Welland Road frontage of the site.</p> <p>It is the opinion of planning staff that the variance is minor in nature.</p>
	<p><u><i>Variance 7 - Parking Requirements (Eating Establishment)</i></u></p> <p>Yes, the variance is considered minor in nature. The variance requests a reduction in the parking rate for eating establishments to 1 space per 6 persons seating capacity whereas the Zoning By-law requires a rate of 1 space per 4 persons seating capacity. The proposed eating establishment (Commercial Unit #1) has a seating capacity of 24 patrons. The variance would result in a reduction of two (2) spaces. It is the opinion of planning staff that the variance is minor in nature.</p>
	<p><u><i>Variance 1 – Permitted Uses (Permit Residential above Grade)</i></u></p> <p>Yes, the variance is considered desirable for the development or use of the land. Permitting residential uses above grade will offer apartment residents easy access to local stores and services and contribute to the housing stock of the Fenwick settlement area. Permitting second storey residential dwelling units on the side and rear yards is not considered to detract from the commercial function of the site, and as such is desirable for the development of the site.</p>
The variance is desirable for the development or use of the land.	<p><u><i>Variance 2 – Regulations for Residential Uses (Residential GFA)</i></u></p> <p>Yes, the variance is considered desirable for the development or use of the land. Allowing for increased residential GFA will allow for a more diverse housing stock in the Fenwick settlement area. The increase in GFA will support the adaptive reuse of the former Firehall and facilitate the development of an underutilized site in a settlement area. As such, planning staff are of the opinion the proposed variance is desirable for the development of the land.</p>
	<p><u><i>Variance 3 – Regulations for Residential Uses (Permit Residential above Grade)</i></u></p> <p>Please refer to analysis of Variance #1.</p>
	<p><u><i>Variance 4 – Regulations for Residential Uses (Minimum Landscaped Amenity Area)</i></u></p> <p>Yes, the variance is desirable for the development of the lands. The requested decrease from 30m<sup>2</sup> per dwelling unit to 25 m<sup>2</sup> per dwelling unit represents a decrease in landscaped amenity area of 5 m<sup>2</sup> per dwelling unit, or 85 m<sup>2</sup> in total (17 dwelling units x 5 m<sup>2</sup>). Each residential dwelling unit will maintain a private amenity area – in the form of patios for the ground floor units (8.36 m<sup>2</sup>), and balconies for the second storey units. The variance will facilitate a compact development that provides adequate public and private amenity space. Planning staff are of the opinion the variance is desirable for the development of the lands.</p>

	<p><u><i>Variance 5 – Parking Requirements (Residential Uses)</i></u></p> <p>The residential and commercial spaces are synergistic from a parking perspective as they have differing peak parking demands at different times of the day. This allows for more efficient use of spaces and ultimately a reduced parking supply that avoids an oversupply, which is desirable for the development of the site. As such, staff are of the opinion that the variance is desirable for the development of the site.</p>
	<p><u><i>Variance 6 - Parking Requirements (Retail/Office Uses)</i></u></p> <p>Please refer to analysis in Variance #5.</p>
	<p><u><i>Variance 7 - Parking Requirements (Eating Establishment)</i></u></p> <p>Please refer to analysis in Variance #5.</p>
The variance maintains the general intent and purpose of the Zoning By-law.	<p><u><i>Variance 1 – Permitted Uses (Permit Residential above Grade)</i></u></p> <p>Yes, the requested variance is considered to maintain the general intent and purpose of the Zoning By-law. The variance is requested to permit second storey dwelling units in the side and rear yards. The permitted uses of the NC-262 zone specify that dwelling units are permitted above ground floor commercial units, and at-grade in the side and rear yards. The variance is required to permit second storey residential dwelling units in the side and rear.</p> <p>The intention of this provision is to maintain the primary function of the lands as a commercial property in the Neighbourhood Commercial zone. It is staff's opinion the property's commercial function is maintained. Permitting second storey units in the side and rear yards is not anticipated to detract from the commercial function of the property. The proposed adaptive reuse of the structure will maintain a primarily commercial façade that will frame the Welland Road frontage. From a streetscape perspective the building will appear commercial.</p> <p>Planning staff are of the opinion the proposed variance maintains the general intent and purpose of the Zoning By-law.</p>
	<p><u><i>Variance 2 – Regulations for Residential Uses (Residential GFA)</i></u></p> <p>Yes, the requested variance is considered to maintain the general intent and purpose of the Zoning By-law. The intention of the GFA cap for residential uses is to ensure the primary function of the lands for commercial uses. The proposed increase of the residential GFA does not compromise the general intent of the Zoning By-law because commercial space is fully maintained at grade along Welland Road. The primary function of the structure as viewed from the street is commercial. Planning staff are of the opinion the proposed variance maintains the general intent and purpose of the Zoning By-law.</p>
	<p><u><i>Variance 3 – Regulations for Residential Uses (Permit Residential above Grade)</i></u></p> <p>Please refer to analysis in Variance #1.</p>
	<p><u><i>Variance 4 – Regulations for Residential Uses (Minimum Landscaped Amenity Area)</i></u></p> <p>Yes, the requested variance is considered to maintain the general intent and purpose of the Zoning By-law. As each dwelling unit will have access to a functional amount of private amenity space, the general intent and purpose of the Zoning By-law is maintained.</p>
	<p><u><i>Variance 5 – Parking Requirements (Residential Uses)</i></u></p> <p>Yes, the requested variance is considered to maintain the general intent and purpose of the Zoning By-law. The intent of the minimum parking space requirement is to ensure a site functions efficiently and meets basic service levels. A Parking Justification Letter was prepared by BA Group which found the proposed parking supply is sufficient for the anticipated demand of the site based on a number of considerations, including: more than 1 space is available for the exclusive use of each dwelling unit. As such,</p>



	<p>planning staff are of the opinion that the general intent and purpose of the Zoning By-law is maintained.</p>
	<p><u><i>Variance 6 - Parking Requirements (Retail/Office Uses)</i></u></p> <p>Yes, the requested variance is considered to maintain the general intent and purpose of the Zoning By-law. The intent of the minimum parking space requirement is to ensure a site functions efficiently and meets basic service levels. The parking justification letter found the proposed parking rate is sufficient for the anticipated demand of the site. Planning staff are of the opinion the requested variance maintains the general intent and purpose of the Zoning By-law.</p>
	<p><u><i>Variance 7 - Parking Requirements (Eating Establishment)</i></u></p> <p>Yes, the requested variance is considered to maintain the general intent and purpose of the Zoning By-law. Please refer to analysis in Variance #6.</p>
The variance maintains the general intent and purpose of the Official Plan.	<p><u><i>Variance 1 – Permitted Uses (Permit Residential above Grade)</i></u></p> <p>Yes, the variance maintains the general intent and purpose of the Official Plan. The lands are designated 'Urban Living Area / Built Boundary.' The purpose of this designation is to recognize the existing residential areas within the Town and to promote the efficient use of existing and planned infrastructure by creating the opportunity for various forms of residential intensification.</p> <p>The variance to permit residential uses above grade does not offend the purpose and intent of the Official Plan. The proposed development is within a settlement area, and provides for a development concept in compact form which is compatible with the surrounding area.</p> <p>It is the opinion of staff that the general intent and purpose of the Official Plan is maintained.</p>
	<p><u><i>Variance 2 – Regulations for Residential Uses (Residential GFA)</i></u></p> <p>Yes, the variance maintains the general intent and purpose of the Official Plan. Increasing the residential GFA balance maintains the purpose of the Official Plan because it will help diversify the land use mix and add housing supply of the settlement area of Fenwick. The proposed variance does not conflict with the policies of the Official Plan. As such, staff are of the opinion that the variance maintains the purpose and intent of the Official Plan.</p>
	<p><u><i>Variance 3 – Regulations for Residential Uses (Permit Residential above Grade)</i></u></p> <p>Please refer to analysis in Variance #1.</p>
	<p><u><i>Variance 4 – Regulations for Residential Uses (Minimum Landscaped Amenity Area)</i></u></p> <p>The lands are designated 'Urban Living Area / Built Boundary.' The purpose of this designation is to recognize the existing residential areas within the Town and to promote the efficient use of existing and planned infrastructure by creating the opportunity for various forms of residential intensification. The reduction in amenity area will contribute to a compact development while providing adequate amenity area. As such, staff are of the opinion the proposed variance maintains the general intent and purpose of the Official Plan.</p>
	<p><u><i>Variance 5 – Parking Requirements (Residential Uses)</i></u></p> <p>The lands are designated 'Urban Living Area / Built Boundary.' The purpose of this designation is to recognize the existing residential areas within the Town and to promote the efficient use of existing and planned infrastructure by creating the opportunity for various forms of residential intensification.</p> <p>The proposed variance to the required parking spaces provision of the Zoning By-law does not offend the policies of the Official Plan and will result in the type of development that is envisioned in the Town's Official Plan. Further, policy B1.2.4.1(b)</p>



	of the Official Plan contemplates exemptions from on-site parking requirements as a tool to encourage compact development and mixed-use intensification. It is opinion of staff that the proposed variance maintains the general intent and purpose of the Official Plan.
	<u>Variance 6 - Parking Requirements (Retail/Office Uses)</u>  Please refer to analysis in Variance #5.
	<u>Variance 7 - Parking Requirements (Eating Establishment)</u>  Please refer to analysis in Variance #5.

### Agency and Public Comments:

On February 6<sup>th</sup>, 2023, 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 building.
- Public Works Department:
  - No comments.

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

### Planning Staff Comments:

Planning staff understand the proposal to be a reasonable request which helps to diversify the land use mix and support the adaptive reuse of an underutilized building. The minor variance will allow for a small level of residential intensification and improve the housing stock which supports planning policy and the local business community.

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.

Planning staff is of the opinion that the application meets the four minor variance tests laid out by the *Planning Act*. 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 A3/2023P **be approved** subject to the following condition(s):

**THAT** the applicant:

- Obtain the necessary Building Permit for the future construction of the proposed mixed-use building.
- Apply for and obtain approval for site plan amendment from the Director of Community Planning and Development.

**Prepared and Submitted by:**

Andrew Edwards, BES  
Planner

**Recommended by:**

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