

## Committee of Adjustment AGENDA

CofA 03/2023

March 6, 2023

4:00 pm

Meridian Community Centre - Accursi A and B

100 Meridian Way

Fonthill, ON

L0S 1E6

The Town of Pelham is holding hybrid Committee of Adjustment hearings. Public access to meetings will be provided in-person at the location indicated on the agenda, via Livestream: [www.youtube.com/townofpelham/live](http://www.youtube.com/townofpelham/live) and subsequent publication to the Town's website at [www.pelham.ca](http://www.pelham.ca).

This Orientation Session will be conducted in-person only.

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. **Approval of Agenda**
4. **Disclosure of Pecuniary Interest and General Nature Thereof**

<b>5. Requests for Withdrawal or Adjournment</b>	
<b>6. Applications for Minor Variance</b>	
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1. Town of Pelham Planning	
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<b>7. Applications for Consent</b>	
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<b>7.2 B3/2023P - 1435 Station Street</b>	<b>34</b>
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<b>9. Adjournment</b>	



**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>

	planning staff are of the opinion that the general intent and purpose of the Zoning By-law is maintained.
	<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

## 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:** February 22, 2023

**File No:** A3/2023P

**RE:** Minor Variance – 788-792 Welland Road

The Public Works Department has reviewed the submitted documentation regarding the proposed minor variance of 261 Canboro Road. The subject land is zoned Neighbourhood Commercial-262 “NC-262” in accordance with Pelham Zoning By-law 1186 (1987) as amended by By-laws 3718(2016) and 3868(2017). The subject lands were subject to previous development applications 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 total of seventeen (17) residential dwelling units located above grade and to the rear of the site. The variances seek relief from:

**Section 19.1(c) of the NC-262 zone “Permitted Uses”** – to permit second storey residential dwelling units in the side and rear yards, whereas the by-law permits dwelling units at grade in the side and rear yards only; and

**Section 19.3(a) of the NC zone “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; and

**Section 19.3(b) of the NC zone “Regulations for Residential Uses”** – to permit dwelling units above the ground floor dwelling units whereas the by-law permits dwelling units above grade above commercial uses only; and,

**Section 19.3(c) of the NC-262 zone “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; and

**Section 6.16(a) of the NC-262 zone “Parking Requirements – Residential Uses”** – to permit 1.25 spaces per dwelling unit whereas the by-law requires 1.5 spaces per dwelling unit; and

**Section 6.16(a) of the NC-262 zone “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

**Section 6.16(a) of the NC-262 zone “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.

**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:

Subject: Building Comments on Applications to the Committee of Adjustment for  
Minor Variance hearing. –788-792 Welland Road, Pelham

**File Number: A3/2023P**

Comment:

- A building permit will be required for this building.

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

# **788-792 WELLAND ROAD**

**FENWICK, TOWN OF PELHAM**

## **MINOR VARIANCE APPLICATION**

**William Heikoop, BURPI, MCIP, RPP**  
**Planner**

**Upper Canada Consultants**



**UPPER CANADA  
CONSULTANTS**  
ENGINEERS / PLANNERS



# Site Context



Site of the former Fenwick Firehall

Proximate to Fenwick's Existing Commercial Area

OP Designation – Urban Living area

Site Specific Neighbourhood Commercial (NC) Zoning

# Previous Proposal



Mixed Commercial-Residential Development

Four new commercial storefronts along Welland Road with 4 second-floor apartments

Former firehall building converted into 6 residences

At-grade surface parking area (32 spaces) behind the building

Site-specific Zoning was approved for this development

Site Plan Approval submissions made to Town



# Current Proposal



Second residential floor (7 units) added to former firehall building

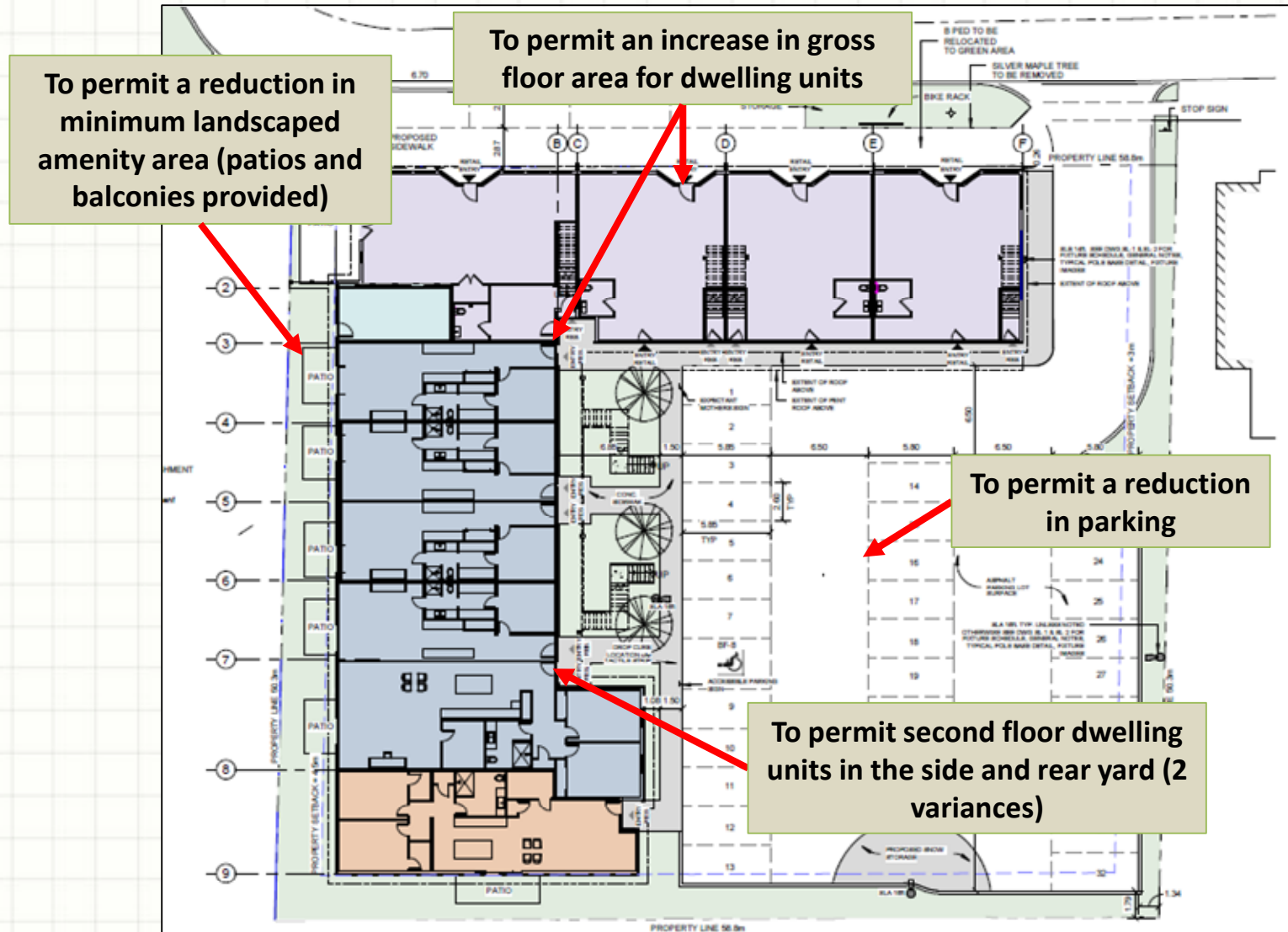
Previous massing, built-form and site layout maintained

Additional dwelling units trigger need for variances

Remains subject to Site Plan Approval



# Requested Variances



# 4 Tests

Test	Analysis
<b>Maintains the general Intent and Purpose of the Official Plan.</b>	<ul style="list-style-type: none"><li>• Proposed uses are permitted under the Official Plan</li><li>• Proposal provides mixed-use development that supports the long-term viability of Fenwick's Downtown area.</li></ul>
<b>Maintains the general Intent and Purpose of the Zoning By-law.</b>	<ul style="list-style-type: none"><li>• Site-specific Zoning approved for the previous development proposal.</li><li>• Current proposal maintains the layout, massing and functionality of previous proposal.</li></ul>
<b>Desirable for the appropriate use and development of the lands.</b>	<ul style="list-style-type: none"><li>• Variances facilitate efficient mixed-use development of an underutilized parcel in Fenwick's downtown area.</li><li>• Parking study completed which confirms proposed parking supply is adequate</li></ul>
<b>Minor in nature.</b>	<ul style="list-style-type: none"><li>• No negative impacts resulting from variances.</li></ul>

# Thank You – Questions?







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

Tuesday, March 07, 2023

**Consent Application: B2/2023P**

**Municipal Address: 1433 Station Street**

**Legal Description: Part of Lot 5, Plan 717 (Part 2 and 4 on Sketch)**

**Roll number: 2732 030 004 02000**

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**Location of Lands and Purpose of Application:**

The subject parcel, shown as Parts 2 and 4 on the attached sketch, is an interior parcel of land situated approximately 60 metres east of Station Street, lying south of Highway 20 East, legally described above, in the Town of Pelham.

Application is made for consent to convey 2,849.9 square metres (Part 4) of land, to be added to the abutting property to the south (Part 5). The conveyance is intended to facilitate the future development of an additional phase of the Park Place West subdivision (Town File: 26T19-01-2022). A future Redline to Draft Plan Approval Application will be required to facilitate the inclusion of these lands within the Park Place West Subdivision. Part 2 is to be retained for continued residential use of the dwelling known municipally as 1433 Station Street.

A concurrent Partial Discharge of Mortgage approval is not required with this application.

Please note this application is being heard concurrently with application B3-2023P.

**Applicable Planning Policies:**

Planning Act (Consolidated April 2022)

Section 51(24) of the *Planning Act* states that when considering the division of land, regard shall be had to the health, safety, convenience, accessibility, and welfare of the present and future inhabitants of the municipality and among other matters, including:

- a) The development's effect on provincial matters of interest;
  - Refer to PPS and Growth Plan analysis in sections below.
- b) Whether the proposed subdivision is premature or in the public interest;
  - The application is not considered premature and is able to uphold public interest.

- c) Whether the plan conforms to the Official Plan and adjacent plans of subdivisions, if any;
  - See Official Plan discussion below.
- d) The suitability of the land for such purposes;
  - Refer to analysis in Planning Analysis sections below.
- f) The dimensions and shapes of the proposed lots;
  - The dimensions and shapes of the lots following the boundary adjustment are appropriate.
- h) Conservation of natural resources and flood control;
  - See planning analysis sections below.
- i) The adequacy of utilities and municipal services;
  - Servicing is available to adequately service the lands.
- j) The adequacy of school sites;
  - Available nearby. School Boards did not comment on application.

Section 53 (1) states a landowner may apply for a consent and the council may, subject to this section, give a consent if satisfied that a plan of subdivision is not necessary for the proper and orderly development of the municipality.

#### Provincial Policy Statement (PPS) (2020)

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development and sets the policy foundation for regulating the development and use of land. The PPS provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment.

Section 3 of the *Planning Act* requires that decisions affecting planning matters “shall be consistent with” policy statements issued under the Act. The PPS recognizes the diversity of Ontario and that local context is important. Policies are outcome-oriented, and some policies provide flexibility provided that provincial interests are upheld. PPS policies represent minimum standards.

The subject lands are within a “Settlement Area”, the Fonthill Urban Settlement Area, according to the PPS. Policy 1.1.3.1 states that settlement areas shall be the focus of growth and development.

Policy 1.1.3.3 states municipalities shall identify appropriate locations and promote opportunities for intensifications where this can be accommodated considering existing building stock and the availability of suitable existing infrastructure and public service facilities.

Policy 1.1.3.4 states appropriate development standards should be promoted which facilitate intensification, redevelopment, and compact form, while avoiding or mitigating risks to public health and safety.

The Niagara Region Official Plan prescribes an annual residential intensification rate of at least 25% for all lands within Pelham’s *Urban Settlement Areas*, this policy



target is also reflected in the Pelham Official Plan. The proposed development will contribute to meeting this target.

Policy 1.1.3.4 states appropriate development standards should be promoted which facilitate *intensification*, *redevelopment*, and compact form, while avoiding or mitigating risks to public health and safety.

Infill development is an acceptable form of *intensification* so long as new development is compatible in nature, is compact, and avoids adverse impacts to provincial interest, public health, safety, and the quality of the human environment. Planning staff are of the opinion the requested zoning relief is consistent with the PPS and promotes appropriate development standards that help facilitate compact form and *intensification*.

Policy 2.6.2 states that development and site alteration shall not be permitted on lands containing archaeological resources or archaeological potential unless the resources have been conserved. The Town's Heritage Master Plan identifies this area as having high archaeological resource potential, however a boundary adjustment is not considered "development" under the PPS and therefore as there is no site alteration proposed, an archeological assessment is not required. The applicant is advised that any future *Planning Act* application involving the subject lands may require the completion of an archaeological assessment.

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

#### Greenbelt Plan (2017)

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

#### Growth Plan for the Greater Golden Horseshoe (2020)

This Plan informs decision-making regarding growth management and environmental protection in the Greater Golden Horseshoe (GGH). All decisions made after May 16, 2019 that affect a planning matter will conform to this Growth Plan, subject to any legislative or regulatory provisions providing otherwise. The policies of this Plan take precedence over the PPS to the extent of any conflict.

The Growth Plan contains various guiding principles which are intended to guide decisions of how land is developed. The guiding principles include building compact, vibrant, and complete communities, managing and encouraging development in appropriate locations, and optimizing the use of existing infrastructure. The subject lands are designated 'Delineated Built-Up Area' according to the Growth Plan.

Section 2.2.1 of the Growth Plan directs growth to settlement areas that have a delineated built boundary, have existing municipal services, and can support the

achievement of complete communities. The Growth Plan states municipalities will support the achievement of complete communities by planning to accommodate forecasted growth, planning to achievement the minimum intensification and density targets of the Plan, considering the range and mix of housing options and densities of existing housing stock, and planning diversify overall housing stock.

#### Niagara Region Official Plan (2022)

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

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

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

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

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

#### Town of Pelham Official Plan (2014)

The Town of Pelham Official Plan is the primary planning document that will direct the actions of the Town and shape growth that will support and emphasize Pelham's unique character, diversity, cultural heritage and protect our natural heritage features.

There are two (2) land use designations associated with the lands. The remnant portion of the lands (Part 2) is designated Downtown Transitional Area and the lands to be severed (Part 4) are located within the East Fonthill Secondary Plan area and are designated Low Density Residential.

Lands designated Downtown Transition Area are located adjacent to the Downtown designation and are intended to be used for a mix of residential and commercial uses

within existing buildings or through redevelopment that is complementary to the Downtown. Residential uses are permitted in this designation. The remnant parcel will continue to contain an existing single detached dwelling on full municipal services. The East Fonthill Low Density designation permits single detached, semi-detached dwelling units and Townhouses. The severed lands will be merged with Part 5 and integrated as part of the Park Place West subdivision. The lands will be developed with permitted urban residential land uses, on full municipal services and will have frontage on a public roadway.

Policy D5.2.1 states that for any consent application, the Committee of Adjustment shall be satisfied that (among other things) the proposed lot:

- a) Fronts on and will be directly accessed by a public road that is maintained on a year-round basis;
  - ✓ Satisfied. Both the severed and retained parcels will have direct access from a public road.
- b) Will not cause a traffic hazard as a result of its location on a curve or a hill;
  - ✓ No traffic hazards are anticipated.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
  - ✓ Satisfied to facilitate the boundary adjustment. A future zoning by-law amendment will be required as part of the modification of the draft plan of subdivision to facilitate future residential development of Part 4.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
  - ✓ Satisfied. Both the severed and retained lot will have an appropriate water supply and means of sewage disposal.
- e) Will not have a negative impact on the drainage patterns in the area;
  - ✓ A lot grading / drainage plan will be required as a condition of approval.
- f) Will not affect the develop ability of the remainder of the lands, if they are designated for development by this Plan;
  - ✓ Satisfied. The proposed consent will facilitate a future residential development.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
  - ✓ There are no environmental features identified on the subject lands.
- h) Conforms with Regional lot creation policy as articulated in the Regional Policy Plan; and,
  - ✓ Satisfied. Regional staff did not object as the proposal does not conflict with Provincial or Regional interests and planning policy.
- i) Complies with the appropriate provincial Minimum Distance Separation Formulae, where applicable.
  - ✓ Not applicable.

Policy D5.2.2 sets the policy basis for boundary adjustments. The policy states: A consent may be permitted for the purpose of correcting conveyances, enlarging existing lots or through acquisition by a public body, provided no new building lot is created. In reviewing an application for a boundary adjustment, the Committee of

Adjustment shall be satisfied that the boundary adjustment will not affect the viability of the use of the properties affected as intended by this Plan.

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

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

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

The subject lands have two (2) zones associated with them. The portion of the property which contains the existing single detached dwelling (Part 2) is zoned Residential 2 (R2). The rear of the site (Part 4) is zoned Agricultural (A). Both Parts will continue to comply with their respective zones.

Part 5 on the sketch, being the Park Place West subdivision lands, were recently amended to site specific Residential 2 (R2-344) and Residential Multiple (RM1-325) Zones. A Zoning By-law Amendment will be required for Part 4 to rezone the lands to an appropriate residential zone to permit its future development.

**Agency and Public Comments:**

On February 7<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
  - Building Department has no comment regarding this boundary adjustment.
- Public Works Department
  - Confirm that no existing utilities cross the proposed lot lines. Should any services cross these lot lines, the applicant shall be responsible for costs associated with their relocation and / or removal.
  - Provide a written acknowledgment that the Owner of Part 4 will be responsible for payment of the front-ending contribution, payable to the Town of Pelham, for the East Fonthill storm water management system oversizing. This apportionment will be in the amount of \$35,462 for 1433 Station Street.
- Hydro One
  - No comments or concerns.

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

### **Planning Staff Comments:**

Application is made to consent to convey 2,849.9 square metres (Part 4) of land, to be added to the abutting property to the south (Part 5).

A pre-consultation meeting was held with the applicant of the property and staff from the Town and Niagara Region Planning & Development Services on January 19<sup>th</sup>, 2023 to discuss the subject application. In addition, a consent sketch and planning justification brief was provided in support of the proposed development. Planning staff reviewed the planning justification brief and agreed with its conclusions.

Based on the analysis in the sections above, Planning staff are of the opinion that the proposed boundary lot adjustment is consistent with the PPS and conforms to Provincial, Regional, and local plans. The resulting parcels comply with application Zoning By-law Regulation and should not negatively impact the surrounding neighbourhood with respect to traffic, privacy, and stormwater management. The proposed boundary adjustment provides for land consolidation needed for future residential development that will be coordinated with the Park Place West subdivision to provide for a comprehensive planned development and, therefore it can be supported by Staff.

### **Planning Staff Recommendation:**

Planning staff recommend that minor variance file B2/2023P **be approved** subject to the following condition(s):

**THAT** the applicant:

- Ensure Part 4 merges on title with Part 5.
- That the Applicant confirm no existing utilities cross the proposed new property line. Should any services cross this new property the Applicant is responsible for their relocation and/or removal so that utilities do not cross the new property line.
- Provide a written acknowledgment that the Owner of Part 4 will be responsible for payment of the front-ending contribution, payable to the Town of Pelham, for the East Fonthill storm water management system oversizing. This apportionment will be in the amount of \$35,462 for 1433 Station Street.
- That the Secretary-Treasurer be provided with a registrable legal description of the subject parcel, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.
- That the final certification fee of \$423 payable to the Treasurer, Town of Pelham, be submitted to the Secretary-Treasurer. All costs associated with fulfilling conditions of consent shall be borne by the applicant.

### **Prepared and Submitted by:**

Andrew Edwards, BES  
Planner

**Recommended by:**

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

## 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; Nicholas Palomba, Engineering Technologist

**From:** Gimuel Ledesma, Engineering Technologist

**Date:** February 9, 2023

**File No.:** B2/2023P

**RE:** Consent – 1433 Station Street

Town of Pelham Public Works Staff have reviewed the above noted application and supporting documentation to address the technical concerns regarding the submitted minor variance application. Application is made for consent to convey 2849.9 square metres of land (Part 4), to be added to the abutting property to the south (Part 5), for future development of the Park Place West subdivision. Part 2 is to be retained for continued residential use of the dwelling known municipally as 1433 Station Street.

**Public Works offer the following comments:**

- No Comments

**Public Works request the following conditions:**

- Confirm that no existing utilities cross the proposed lot lines. Should any services cross these lot lines, the applicant shall be responsible for costs associated with their relocation and / or removal.
- Provide a written acknowledgment that the Owner will be responsible for payment of the front-ending contribution, payable to the Town of Pelham, for the East Fonthill storm water management system oversizing. This apportionment will be in the amount of \$35,462 for 1433 Station Street.

To: Sarah Leach

Cc: Andrew Edwards

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

Date: February 22, 2023

Subject: Building Comments on Applications to the Committee of Adjustment for  
Minor Variance hearing. –1435 Station Street, Pelham  
**File Number: B2/2023P**

Comment:

- Building Department has no comment regarding this boundary adjustment.

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



**From:** SHLLAKU Paul <[Paul.Shllaku@hydroone.com](mailto:Paul.Shllaku@hydroone.com)>  
**Sent:** Thursday, February 16, 2023 9:27 AM  
**To:** Jennie Hyun-Ji Song <[JSong@pelham.ca](mailto:JSong@pelham.ca)>  
**Subject:** Town of Pelham -B2-2023P

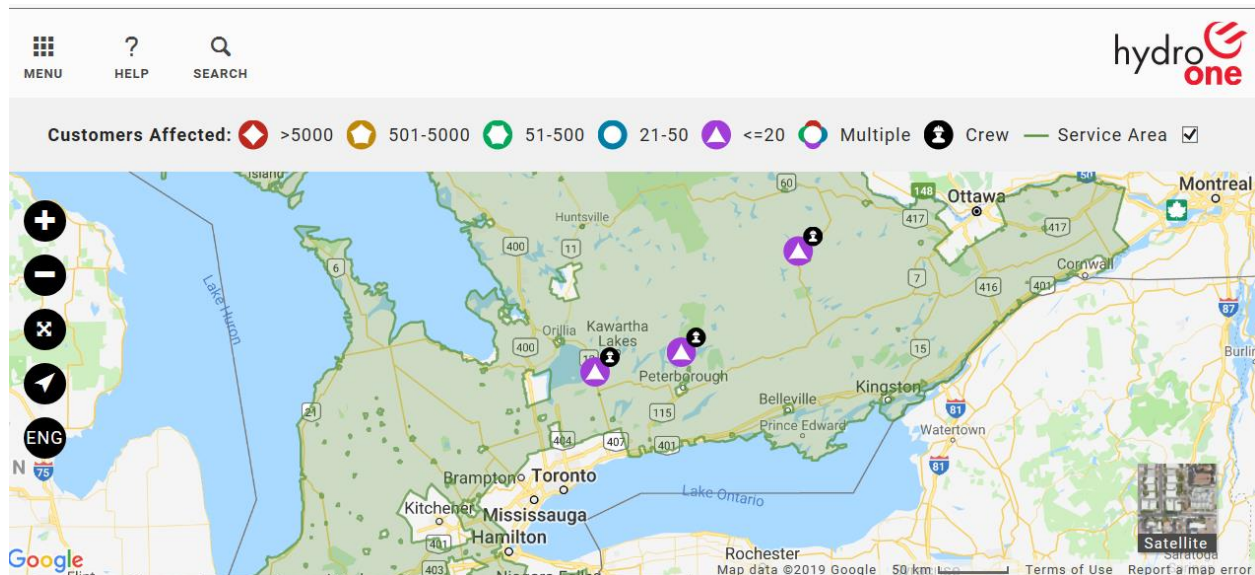
Hello,

We are in receipt of your Application for Consent, B2-2023P dated February 7, 2023. We have reviewed the documents concerning the noted Application and have no comments or concerns at this time. **Our preliminary review considers issues affecting Hydro One's 'High Voltage Facilities and Corridor Lands' only.**

For proposals affecting 'Low Voltage Distribution Facilities' please consult your local area Distribution Supplier.

To confirm if Hydro One is your local distributor please follow the following link:  
<http://www.hydroone.com/StormCenter3/>

Please select " Search" and locate address in question by entering the address or by zooming in and out of the map



If Hydro One is your local area Distribution Supplier, please contact Customer Service at 1-888-664-9376 or e-mail [CustomerCommunications@HydroOne.com](mailto:CustomerCommunications@HydroOne.com) to be connected to your Local Operations Centre

Please let me know if you have any questions or concerns.

Thank you,

**Dennis De Rango**

Specialized Services Team Lead, Real Estate Department  
Hydro One Networks Inc.  
Tel: (905)946-6237

Email: [Dennis.DeRango@HydroOne.com](mailto:Dennis.DeRango@HydroOne.com)

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**From:** [noreply@pelham.ca](mailto:noreply@pelham.ca) on behalf of [Mary Ann Joyce](#)  
**To:** [Sarah Leach](#)  
**Subject:** public hearing meeting March 6th 2023  
**Date:** Tuesday, February 28, 2023 3:54:54 PM

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Concerns regarding development of homes aligning with 1435/1433 Station street Previous construction from Fonthill Yards caused my basement to flood, repairs done at my cost What measures are being taken to prevent potential flooding from happening again? How will noise/vibrations be controlled? Traffic flow is an issue already how will that be managed?

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Origin: [https://linkprotect.cudasvc.com/url?  
a=https%3a%2f%2fwww.pelham.ca%2fModules%2fcontact%2fsearch.aspx%3f%3d%2uLtzJt5IA5HIngAojQI5IA5H6JTjAeQuA1eQuA1&c=E,1,0vqfwD9RfPVRIZZWxG-70\\_yc1I1CCq3irHJ89hoHVqRBrDhFxJ0yJfDVCF58jZY\\_yfgEyP3XbXYt5-SpLMmdMUWicLeEQXP-9vuSdb8K&typo=1](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.pelham.ca%2fModules%2fcontact%2fsearch.aspx%3f%3d%2uLtzJt5IA5HIngAojQI5IA5H6JTjAeQuA1eQuA1&c=E,1,0vqfwD9RfPVRIZZWxG-70_yc1I1CCq3irHJ89hoHVqRBrDhFxJ0yJfDVCF58jZY_yfgEyP3XbXYt5-SpLMmdMUWicLeEQXP-9vuSdb8K&typo=1)  
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This email was sent to you by Mary Ann Joyce<  
[REDACTED]  
[REDACTED]

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

Tuesday, March 07, 2023

**Consent Application: B3-2023P****Municipal Address: 1435 Station Street****Legal Description: Lot 4, Plan 717, Save and Except Part 1 on Reference  
Plan 59R-16904 (Part 1 and 3 on Sketch)****Roll number: 2732 030 004 01900**

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**Location of Lands and Purpose of Application:**

The subject parcel, shown as Parts 1 and 3 on the attached sketch, is an interior parcel of land situated approximately 60 metres east of Station Street, lying south of Highway 20 East, legally described above, in the Town of Pelham.

Application is made for partial discharge of mortgage and consent to convey 2,432.2 square metres (Part 3) of land, to be added to the abutting property to the south (Parts 4 and 5). The conveyance is intended to facilitate the future development of an additional phase of the Park Place West subdivision (Town File: 26T19-01-2022). A future Redline to Draft Plan Approval Application will be required to facilitate the inclusion of these lands within the Park Place West Subdivision. Part 1 is to be retained for continued residential use of the dwelling known municipally as 1435 Station Street. In addition, a concurrent Partial Discharge of Mortgage approval is required with this application.

Please note this application is being heard concurrently with application B2-2023P.

**Applicable Planning Policies:**

Section 51(24) of the *Planning Act* states that when considering the division of land, regard shall be had to the health, safety, convenience, accessibility, and welfare of the present and future inhabitants of the municipality and among other matters, including:

- a) The development's effect on provincial matters of interest;
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  - The application is not considered premature and is able to uphold public interest.
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There are two (2) land use designations associated with the lands. The remnant portion of the lands (Part 1) is designated Downtown Transitional Area and the lands to be severed (Part 3) are located within the East Fonthill Secondary Plan area and are designated Low Density Residential.

Lands designated Downtown Transition Area are located adjacent to the Downtown designation and are intended to be used for a mix of residential and commercial uses

within existing buildings or through redevelopment that is complementary to the Downtown. Residential uses are permitted in this designation. The remnant parcel will continue to contain an existing single detached dwelling on full municipal services. The East Fonthill Low Density designation permits single detached, semi-detached dwelling units and Townhouses. The severed lands will be merged with the adjacent Parts 4 and 5 and integrated as part of the Park Place West subdivision. The lands will be developed with permitted urban residential land uses, on full municipal services and will have frontage on a public roadway.

Policy D5.2.1 states that for any consent application, the Committee of Adjustment shall be satisfied that (among other things) the proposed lot:

- a) Fronts on and will be directly accessed by a public road that is maintained on a year-round basis;
  - ✓ Satisfied. Both the severed and retained parcels will have direct access from a public road.
- b) Will not cause a traffic hazard as a result of its location on a curve or a hill;
  - ✓ No traffic hazards are anticipated.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
  - ✓ Satisfied to facilitate the boundary adjustment. A future zoning by-law amendment will be required as part of the modification of the draft plan of subdivision to facilitate future residential development of Part 3.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
  - ✓ Satisfied. Both the severed and retained lot will have an appropriate water supply and means of sewage disposal.
- e) Will not have a negative impact on the drainage patterns in the area;
  - ✓ A lot grading / drainage plan will be required as a condition of approval.
- f) Will not affect the develop ability of the remainder of the lands, if they are designated for development by this Plan;
  - ✓ Satisfied. The proposed consent will facilitate a future residential development.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
  - ✓ There are no environmental features identified on the subject lands.
- h) Conforms with Regional lot creation policy as articulated in the Regional Policy Plan; and,
  - ✓ Satisfied. Regional staff did not object as the proposal does not conflict with Provincial or Regional interests and planning policy.
- i) Complies with the appropriate provincial Minimum Distance Separation Formulae, where applicable.
  - ✓ Not applicable.

Policy D5.2.2 sets the policy basis for boundary adjustments. The policy states: A consent may be permitted for the purpose of correcting conveyances, enlarging existing lots or through acquisition by a public body, provided no new building lot is created. In reviewing an application for a boundary adjustment, the Committee of



Adjustment shall be satisfied that the boundary adjustment will not affect the viability of the use of the properties affected as intended by this Plan.

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

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

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

The subject lands have two (2) zones associated with them. The portion of the property which contains the existing single detached dwelling (Part 1) is zoned Residential 2 (R2). The rear of the site (Part 3) is zoned Agricultural (A). Both Parts will continue to comply with their respective zones.

Part 5 on the sketch, being the Park Place West subdivision lands, were recently amended to site specific Residential 2 (R2-344) and Residential Multiple (RM1-325) Zones. A Zoning By-law Amendment will be required for Part 3 to rezone the lands to an appropriate residential zone to permit its future development.

**Agency and Public Comments:**

On February 7<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
  - Building Department has no comment regarding this boundary adjustment.
- Public Works Department
  - Confirm that no existing utilities cross the proposed lot lines. Should any services cross these lot lines, the applicant shall be responsible for costs associated with their relocation and / or removal.
  - The Town will require a 5m wide storm sewer easement along the northern boundary line of 1435 Station Street (Part 3). This can be cleared during Draft of Subdivision Stage.
  - Provide a written acknowledgment that the Owner of Part 3 will be responsible for payment of the front-ending contribution, payable to the Town of Pelham, for the East Fonthill storm water management system oversizing. This apportionment will be in the amount of \$35,145 for 1435 Station Street.
- Hydro One
  - No comments or concerns.

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

### **Planning Staff Comments:**

Application is made to consent to convey 2,432.2 square metres (Part 3) of land, to be added to the abutting property to the south (Parts 4 and 5).

A pre-consultation meeting was held with the applicant of the property and staff from the Town and Niagara Region Planning & Development Services on January 19<sup>th</sup>, 2023 to discuss the subject application. In addition, a consent sketch and planning justification brief was provided in support of the proposed development. Planning staff reviewed the planning justification brief and agreed with its conclusions.

Based on the analysis in the sections above, Planning staff are of the opinion that the proposed boundary lot adjustment is consistent with the PPS and conforms to Provincial, Regional, and local plans. The resulting parcels comply with application Zoning By-law Regulation and should not negatively impact the surrounding neighbourhood with respect to traffic, privacy, and stormwater management. The proposed boundary adjustment provides for land consolidation needed for future residential development that will be coordinated with the Park Place West subdivision to provide for a comprehensive planned development and, therefore it can be supported by Staff.

### **Planning Staff Recommendation:**

Planning staff recommend that minor variance file B3/2023P **be approved** subject to the following condition(s):

**THAT** the applicant:

- That application for consent, file B3/2023P receive final certification of the Secretary-Treasurer concurrently with application B2/2023P or that the applicant provide the Secretary-Treasurer with sufficient evidence indicating that Part 4 (on sketch), B2/2023P be registered prior to Part 3 (on sketch), B3/2023P.
- Ensures Part 3 merges on title with Parts 4 & 5.
- That the Applicant confirm no existing utilities cross the proposed new property line. Should any services cross this new property the Applicant is responsible for their relocation and/or removal so that utilities do not cross the new property line.
- The Town will require a 5m wide storm sewer easement along the northern boundary line of 1435 Station Street (Part 3).
- Provide a written acknowledgment that the Owner of Part 3 will be responsible for payment of the front-ending contribution, payable to the Town of Pelham, for the East Fonthill storm water management system oversizing. This apportionment will be in the amount of \$35,145 for 1435 Station Street.

- That the Secretary-Treasurer be provided with a registrable legal description of the subject parcel, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.
- That the final certification fee of \$423 payable to the Treasurer, Town of Pelham, be submitted to the Secretary-Treasurer. All costs associated with fulfilling conditions of consent shall be borne by the applicant.

**Prepared and Submitted by:**

Andrew Edwards, BES  
Planner

**Recommended by:**

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

## 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; Nicholas Palomba, Engineering Technologist

**From:** Gimuel Ledesma, Engineering Technologist

**Date:** February 9, 2023

**File No.:** B3/2023P

**RE:** Consent – 1435 Station Street

Town of Pelham Public Works Staff have reviewed the above noted application and supporting documentation to address the technical concerns regarding the submitted minor variance application. Application is made for consent to partial discharge of mortgage and convey 2432.2 square metres of land (Part 3), to be added to the abutting properties to the south (Parts 4 and 5), for future development of the Park Place West subdivision. Part 1 is to be retained for continued residential use of the dwelling known municipally as 1435 Station Street.

**Public Works offer the following comments:**

- No Comments

**Public Works request the following conditions:**

- Confirm that no existing utilities cross the proposed lot lines. Should any services cross these lot lines, the applicant shall be responsible for costs associated with their relocation and / or removal.
- The Town will require a 5m wide storm sewer easement along the northern boundary line of 1435 Station Street. This can be cleared during Draft of Subdivision Stage.
- Provide a written acknowledgment that the Owner will be responsible for payment of the front-ending contribution, payable to the Town of Pelham, for the East Fonthill storm water management system oversizing. This apportionment will be in the amount of \$35,145 for 1435 Station Street.

To: Sarah Leach

Cc: Andrew Edwards

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

Date: February 22, 2023

Subject: Building Comments on Applications to the Committee of Adjustment for  
Minor Variance hearing. –1435 Station Street, Pelham  
**File Number: B3/2023P**

Comment:

- Building Department has no comment regarding this boundary adjustment.

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

**From:** SHLLAKU Paul <[Paul.Shllaku@hydroone.com](mailto:Paul.Shllaku@hydroone.com)>  
**Sent:** Thursday, February 16, 2023 9:28 AM  
**To:** Jennie Hyun-Ji Song <[JSong@pelham.ca](mailto:JSong@pelham.ca)>  
**Subject:** Town of Pelham - 1435 Station Street, Pelham -B3-2023P

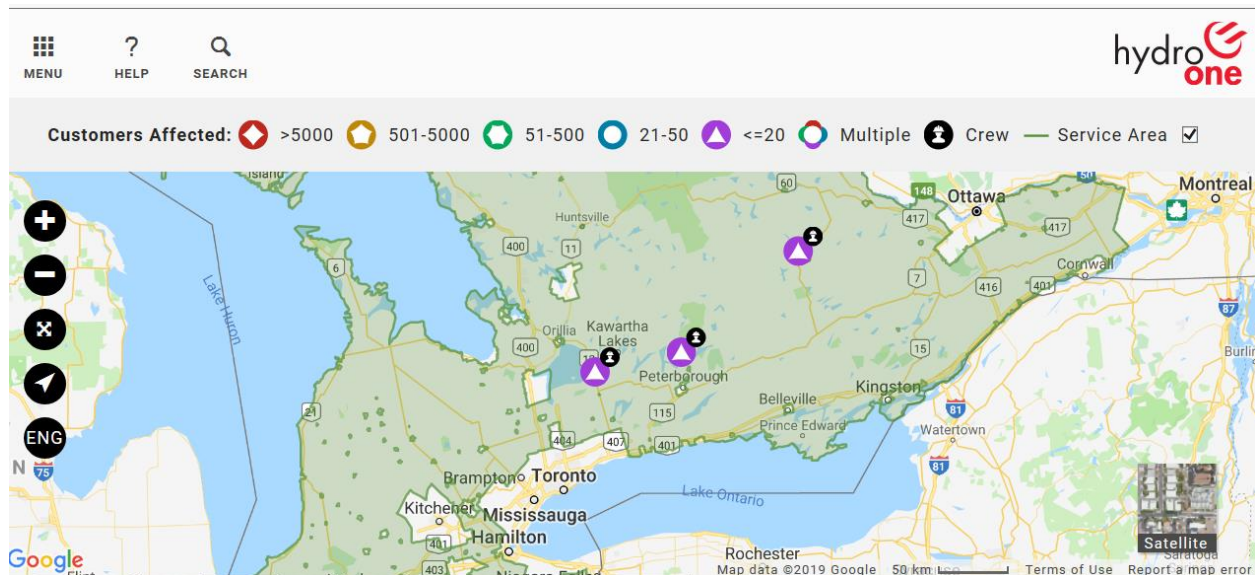
Hello,

We are in receipt of your Application for Consent, B3-2023P dated February 7, 2023. We have reviewed the documents concerning the noted Application and have no comments or concerns at this time. **Our preliminary review considers issues affecting Hydro One's 'High Voltage Facilities and Corridor Lands' only.**

For proposals affecting 'Low Voltage Distribution Facilities' please consult your local area Distribution Supplier.

To confirm if Hydro One is your local distributor please follow the following link:  
<http://www.hydroone.com/StormCenter3/>

Please select " Search" and locate address in question by entering the address or by zooming in and out of the map



If Hydro One is your local area Distribution Supplier, please contact Customer Service at 1-888-664-9376 or e-mail [CustomerCommunications@HydroOne.com](mailto:CustomerCommunications@HydroOne.com) to be connected to your Local Operations Centre

Please let me know if you have any questions or concerns.

Thank you,

**Dennis De Rango**

Specialized Services Team Lead, Real Estate Department  
Hydro One Networks Inc.  
Tel: (905)946-6237

Email: [Dennis.DeRango@HydroOne.com](mailto:Dennis.DeRango@HydroOne.com)


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**From:** [noreply@pelham.ca](mailto:noreply@pelham.ca) on behalf of [Mary Ann Joyce](#)  
**To:** [Sarah Leach](#)  
**Subject:** public hearing meeting March 6th 2023  
**Date:** Tuesday, February 28, 2023 3:54:54 PM

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Concerns regarding development of homes aligning with 1435/1433 Station street Previous construction from Fonthill Yards caused my basement to flood, repairs done at my cost What measures are being taken to prevent potential flooding from happening again? How will noise/vibrations be controlled? Traffic flow is an issue already how will that be managed?

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Origin: [https://linkprotect.cudasvc.com/url?  
a=https%3a%2f%2fwwww.pelham.ca%2fmodules%2fcontact%2fsearch.aspx%3f%3d%2uLtzJt5IA5HIngAojQI5IA5H6JTjAeQuA1eQuA1&c=E,1,0vqfwD9RfPVRIZZWxG-70\\_yc1I1CCq3irHJ89hoHVqRBrDhFxJ0yJfDVCF58jZY\\_yfgEyP3XbXYt5-SpLMmdMUWicLeEQXP-9vuSdb8K&typo=1](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwwww.pelham.ca%2fmodules%2fcontact%2fsearch.aspx%3f%3d%2uLtzJt5IA5HIngAojQI5IA5H6JTjAeQuA1eQuA1&c=E,1,0vqfwD9RfPVRIZZWxG-70_yc1I1CCq3irHJ89hoHVqRBrDhFxJ0yJfDVCF58jZY_yfgEyP3XbXYt5-SpLMmdMUWicLeEQXP-9vuSdb8K&typo=1)  
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This email was sent to you by Mary Ann Joyce < >





**Committee of Adjustment****Minutes**

**Meeting #:** CofA 2023 Orientation 1  
**Date:** Thursday, February 2, 2023  
**Time:** 4:00 pm  
**Location:** Meridian Community Centre - Accursi B  
100 Meridian Way  
Fonthill, ON  
L0S 1E6

**Members Present** Brenda Stan  
Colin McCann  
Don Rodbard  
Isaiah Banach  
John Cappa

**Staff Present** Holly Willford  
Sarah Leach  
Andrew Edwards  
Derek Young  
Barb Wiens  
Jennie Hyun-ji Song

**1. Attendance**

Staff and Committee of Adjustment Members were in attendance for the 2022-2026 orientation session.

**2. Welcome, Introduction of Committee and Staff**

Ms. Sarah Leach, Assistant Secretary Treasurer welcomed the Committee of Adjustment Members to orientation and short introductions were made by each Staff and Committee Member.

**2.1 Land Recognition Statement**

Ms. Leach recited the land acknowledgement Statement.

### **3. Committee of Adjustment Orientation - Staff Presentations**

#### **3.1 Clerk's Department**

Ms. Leach provided a presentation outlining the role of the Clerk's department within the Committee of Adjustment process. A copy of the presentation is available through the Clerk and the published agenda.

Ms. Leach answered various questions posed by Committee Members.

#### **3.2 Planning and Development Department and Building Division**

Ms. Barb Wiens, Director of Community Planning and Development provided a presentation outlining the role of the Community Planning and Development department and Building Division within the Committee of Adjustment process. A copy of the presentation is available through the Clerk and the published agenda.

Ms. Wiens answered various questions posed by Committee Members.

#### **3.3 Public Work Department/ Engineering Division**

Mr. Derek Young, Manager of Engineering provided a presentation outlining the role of the Public Work's department within the Committee of Adjustment process. A copy of the presentation is available through the Clerk and the published agenda.

Mr. Young answered various questions posed by Committee Members.

### **4. Election of Chair & Vice Chair Positions: Period of February, 2023 to November, 2026 or until successors are appointed**

Isaiah Banach accepted the nomination of Chair. The Assistant Secretary-Treasurer announced Isaiah Banach acclaimed to the position of Chair.

**Moved By** Colin McCann

**Seconded By** Don Rodbard

**THAT Isaiah Banach be appointed as Chair of the Committee of Adjustment.**

**Carried**

John Cappa accepted the nomination of Vice-Chair. The Assistant Secretary-Treasurer announced John Cappa acclaimed to the position of Vice-Chair.

**Moved By** Isaiah Banach  
**Seconded By** Don Rodbard

**THAT John Cappa be appointed as Vice-Chair of Committee of Adjustment.**

**Carried**

- 5. Resolution required under the Planning Act to appoint Secretary-Treasurer and Assistant Secretary-Treasurer**

**Moved By** Colin McCann  
**Seconded By** John Cappa

**THAT Sarah Leach be appointed as the Secretary-Treasurer for the 2022-2026 Committee of Adjustment;**

**AND THAT Holly Willford be appointed as the Assistant / Acting Secretary-Treasurer for the 2022-2026 Committee of Adjustment.**

**Carried**

- 6. Adjournment**

**Moved By** Isaiah Banach  
**Seconded By** Don Rodbard

**THAT the Orientation Session of the Committee of Adjustment be adjourned.**

**Carried**

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Isaiah Banach, Chair

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Holly Willford, Secretary-Treasurer

**Committee of Adjustment****Minutes**

**Meeting #:** CofA 02/2023  
**Date:** Tuesday, February 7, 2023  
**Time:** 4:00 pm  
**Location:** Town of Pelham Municipal Office - Council Chambers  
20 Pelham Town Square, Fonthill

**Members Present** John Klassen  
Bernie Law  
Brenda Stan

**Members Absent** Donald Cook  
Sandra Marsh

**Staff Present** Sarah Leach  
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 Klassen 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, 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, Secretary-Treasurer stated no requests for withdrawal or adjournment have been made.

**5. Applications for Minor Variance**

None.

**6. Applications for Consent**

**6.1 B1/2023P - Part Lot 7, Concession 6, being Part 2 on 59R-3127 (Metler Road)**

**Purpose of the Application**

Application is made for consent to convey 1.779 hectares of land (Parcel 2), to be added to the abutting property to the east (Parcel 3), for future construction of a barn. Parcel 1 is to be retained for continued agricultural use.

**Representation**

The Applicant, Arthur Cardin was electronically present.

**Correspondence Received**

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Niagara Region
5. Niagara Escarpment Commission

**Applicants Comments**

The Applicant, Mr. Arthur Cardin stated he had no objection to the requested conditions.

**Public Comments**

Ms. Sarah Leach, Secretary Treasurer indicated she checked the [clerks@pelham.ca](mailto:clerks@pelham.ca) email address at 4:09pm 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.

### **Member Comments**

The Members offered no additional comments or questions.

**Moved By** Brenda Stan

**Seconded By** Bernie Law

**THAT application made for consent to convey 1.779 hectares of land (Parcel 2), to be added to the abutting property to the east (Parcel 3), for future construction of a barn. Parcel 1 is to be retained for continued agricultural use, 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 no existing utilities cross the proposed new property line. Should any services cross this new property line, the applicant shall be responsible for their relocation and/or removal so that utilities do not cross the new property line.**

#### **To the Satisfaction of the Director of Community Planning & Development**

1. **That all necessary building permits be obtained for the proposed barn prior to construction commencing, to the satisfaction of the Chief Building Official. The barn shall not contain washrooms, bedrooms or living space.**
2. **That the applicant submit a copy of the Ministry of Heritage, Sport, Tourism and Culture Industries Archaeological Assessment Clearance letter to the satisfaction of the Director of Community Planning and Development.**

#### **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 east (Part 3 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 \$423, 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.

**To the Satisfaction of the Niagara Region Planning and Development**

1. That the applicant submit an updated hydrogeological study that reflects the reduced lot size of Parcel 1 and the implementation of any updated recommendations required to support private servicing to the Niagara Region for review and approval.

**To the Satisfaction of the Niagara Escarpment Commission**

1. That the final Development Permit be issued by the Niagara Escarpment Commission prior to final certification of the consent B1/2023P.

**Carried**

**7. Minutes for Approval**

**Moved By** Bernie Law

**Seconded By** Brenda Stan

**THAT the Committee of Adjustment minutes dated January 11, 2023, be approved.**

**Carried**

**8. Adjournment**

The meeting was adjourned at 4:14 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 March 6, 2023 at 4:00 pm.**

**Carried**

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John Klassen, Chair

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Sarah Leach, Secretary-Treasurer