

Committee of Adjustment**Minutes**

Meeting #: CofA 03/2023
Date: Monday, March 6, 2023
Time: 4:00 pm
Location: Meridian Community Centre - Accursi A and B
100 Meridian Way
Fonthill, ON
L0S 1E6

Members Present Brenda Stan
Isaiah Banach
John Cappa

Members Absent Colin McCann
Don Rodbard

Staff Present Holly Willford
Sarah Leach
Andrew Edwards
Derek Young

1. Attendance

Applicants, Agents and viewing members of the public via in-person attendance and 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 Banach 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. Approval of Agenda

Moved By John Cappa

Seconded By Isaiah Banach

THAT the agenda for the March 6, 2023 Committee of Adjustment meeting be adopted, as circulated.

Carried

4. Disclosure of Pecuniary Interest and General Nature Thereof

There were no pecuniary interests disclosed by any of the members present.

5. Requests for Withdrawal or Adjournment

Ms. Sarah Leach, Secretary-Treasurer stated no requests for withdrawal or adjournment have been made.

The hearing was recessed until 4:35 pm to resolve technical difficulties.

6. Applications for Minor Variance

6.1 A3/2023P - 788-792 Welland Road

Purpose of the Application

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 m² per dwelling unit whereas the by-law requires a minimum landscaped amenity area of 30 m² 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 m² gross floor area whereas the by-law requires 1 space per 30 m²; 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.

Representation

The Agents, William Heikoop and Ethan Laman of Upper Canada Consultants and the Applicant, Rob Lucchetta were present.

Correspondence Received

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Upper Canada Consultants Presentation

Applicants Comments

The Agents, Mr. Heikoop and Mr. Laman provided a presentation to further explain the application. A copy is available through the Clerk and published to the agenda.

Public Comments

Mr. Gary Robins expressed concern regarding the reduction in parking. Mr. Robins suggested that businesses will not remain in the commercial space due to inadequate parking.

Ms. Leach, Secretary Treasurer indicated she checked the clerks@pelham.ca email address at 4:58 pm and confirmed no e-mails have been received regarding the subject application. Ms. Leach indicated the public comment portion of the application could be closed. The Committee agreed to close the public portion of the meeting and deliberate.

Moved By John Cappa

Seconded By Brenda Stan

THAT the public portion of the meeting is closed.

Carried

Member Comments

Mr. Heikoop stated that the proposal is four spaces short of the new Zoning By-law requirement. He further stated four on-street parking spaces are available in front of the commercial units. Mr. Heikoop stated the commercial units are a smaller scale. He indicated the proposal promotes walkability and balances commercial needs appropriately. Mr. Heikoop noted different peak parking demands and indicated the proposal is efficient while not providing over-supply.

A Member indicated that the proposal is evolutionary for the Town and recognized that the proposal is a change in design for the Fenwick area. The Member indicated they considered the parking study and support the application.

Moved By Brenda Stan
Seconded By John Cappa

Application for relief of 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, is hereby: GRANTED;

The above decision is based on the following reasons:

- 1. The variance is minor in nature as it is not anticipated to detract from the commercial function on the site.**
- 2. The general purpose and intent of the Zoning By-Law is maintained.**
- 3. The intent of the Official Plan is maintained.**
- 4. The proposal is desirable for the appropriate development and/or use of the land because it will offer apartment residents easy access to local stores and services while contributing to the housing stock of the Fenwick settlement area.**
- 5. This application is granted without prejudice to any other application in the Town of Pelham.**
- 6. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.**

Application for relief of 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, is hereby: GRANTED;

The above decision is based on the following reasons:

- 1. The variance is minor in nature as ample commercial space exists and the primary function of the site as viewed from Welland Road appears commercial.**
- 2. The general purpose and intent of the Zoning By-Law is maintained.**
- 3. The intent of the Official Plan is maintained.**

4. The proposal is desirable for the appropriate development and/or use of the land because it will support the adaptive reuse of the former firehall and facilitate the development of an underutilized site in the settlement area.
5. This application is granted without prejudice to any other application in the Town of Pelham.
6. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.

Application for relief of 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, is hereby: GRANTED;

The above decision is based on the following reasons:

1. The variance is minor in nature as it is not anticipated to detract from the commercial function on the site.
2. The general purpose and intent of the Zoning By-Law is maintained.
3. The intent of the Official Plan is maintained.
4. The proposal is desirable for the appropriate development and/or use of the land because it will offer apartment residents easy access to local stores and services while contributing to the housing stock of the Fenwick settlement area.
5. This application is granted without prejudice to any other application in the Town of Pelham.
6. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.

Application for relief of 19.3(c) of the NC-262 zone “Regulations for Residential Uses”– to permit a minimum landscaped amenity area of 25 m2 per dwelling unit whereas the by-law requires a minimum landscaped amenity area of 30 m2 be provided for each dwelling unit, is hereby: GRANTED;

The above decision is based on the following reasons:

- 1. The variance is minor in nature as ample amenity area remains to service the proposed dwelling units.**
- 2. The general purpose and intent of the Zoning By-Law is maintained.**
- 3. The intent of the Official Plan is maintained.**
- 4. The proposal is desirable for the appropriate development and/or use of the land because it will facilitate a compact development that provides adequate public and private amenity space.**
- 5. This application is granted without prejudice to any other application in the Town of Pelham.**
- 6. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.**

Application for relief of 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, is hereby: GRANTED;

The above decision is based on the following reasons:

- 1. The variance is minor in nature as each residential unit will have a dedicated parking space in addition to five (5) additional spaces and access to commercial spaces outside of business hours.**
- 2. The general purpose and intent of the Zoning By-Law is maintained.**
- 3. The intent of the Official Plan is maintained.**
- 4. The proposal is desirable for the appropriate development and/or use of the land as it will allow for efficient use of spaces and avoid oversupply because residential and commercial spaces have differing peak parking demands.**
- 5. This application is granted without prejudice to any other application in the Town of Pelham.**

6. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.

Application for relief of 6.16(a) of the NC-262 zone “Parking Requirements – Retail/Office Uses” – to permit a rate of 1 space per 52 m2 gross floor area whereas the by-law requires 1 space per 30 m2, is hereby: GRANTED;

The above decision is based on the following reasons:

1. The variance is minor in nature given the relatively small ground floor area and access to on-street parking on Welland Road.
2. The general purpose and intent of the Zoning By-Law is maintained.
3. The intent of the Official Plan is maintained.
4. The proposal is desirable for the appropriate development and/or use of the land as it will allow for efficient use of spaces and avoid oversupply because residential and commercial spaces have differing peak parking demands.
5. This application is granted without prejudice to any other application in the Town of Pelham.
6. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.

Application for relief of 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, is hereby: GRANTED;

The above decision is based on the following reasons:

1. The variance is minor in nature as it would only result in the reduction of two (2) parking spaces.
2. The general purpose and intent of the Zoning By-Law is maintained.

3. **The intent of the Official Plan is maintained.**
4. **The proposal is desirable for the appropriate development and/or use of the land as it will allow for efficient use of spaces and avoid oversupply because residential and commercial spaces have differing peak parking demands.**
5. **This application is granted without prejudice to any other application in the Town of Pelham.**
6. **The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.**

The above decisions are subject to the following conditions:

1. **That all necessary building permits are obtained prior to construction commencing, to the satisfaction of the Chief Building Official.**

Prior to Building Permit:

1. **To the Satisfaction of the Director of Community Planning and Development**
 1. **That the Applicant apply and receive approval for a Site Plan Amendment**

Carried

7. Applications for Consent

7.1 B2/2023P - 1433 Station Street

Consent files B2/2023P and B3/2023P were heard concurrently.

Purpose of the Application

Application B2/2023P 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.

Application B3/2023P 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.

Representation

The Agent, Matt Kernahan of Upper Canada Consultants was present.

Correspondence Received

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Hydro One
5. Mary Ann Joyce

Applicants Comments

Mr. Matt Kernahan stated the purpose of the proposal is to facilitate a boundary adjustment and consolidate the two rear yards with the parcel owned by Mountainview Homes. Mr. Kernahan indicated the receiving parcel currently has draft plan approval which would be amended to include the two additional parcels. Mr. Kernahan further stated the lands would also be subject to a zoning by-law amendment and noted that components such as storm water management would be dealt with as condition of approval through the draft plan of subdivision.

Public Comments

Ms. Mary Ann Joyce stated she lived at 1437 Station Street. Ms. Joyce further stated a public easement corresponds with her driveway. Ms. Joyce asked how access to the easement would affect her property. Ms. Joyce stated she was subject to a major flood on her property due to previous development in the area. She expressed concern this development will lead to additional flooding on her property.

Ms. Joyce expressed concern regarding noise. She expressed additional concern regarding traffic control, referencing students and seniors in the area. Ms. Joyce requested the start date of the project. Ms. Joyce asked if the bank of trees would be removed along 1433 Station Street. Ms. Joyce requested the developer be mindful of existing homes and traffic.

Ms. Sarah Leach, Secretary Treasurer indicated she checked the clerks@pelham.ca email address and confirmed no e-mails have been received regarding the subject application. Ms. Leach indicated the public comment portion of the application could be closed. The Committee agreed to close the public portion of the meeting and deliberate.

Moved By John Cappa

Seconded By Brenda Stan

THAT the public portion of the meeting is closed.

Carried

Member Comments

Mr. Kernahan stated the purpose of the easement is to construct a municipal storm sewer in the northerly part of 1435 Station Street. He indicated this would improve drainage in the general area. Mr. Kernahan stated the easement would not regularly be accessed. He stated the intent is to ensure the Town has the right to access the storm sewer.

A Member asked for confirmation that the easement is to the benefit of the Town. Mr. Kernahan confirmed the 5-metre easement was a condition of approval requested by the Town. Mr. Kernahan explained the Town is taking the opportunity to secure the easement.

With respect to noise, Mr. Kernahan assured that construction is required to comply with the noise by-law but advised no construction site is without nuisance impacts.

A Member asked if there is a construction management plan. Mr. Kernahan confirmed there are requirements in place to manage construction. Mr. Kernahan indicated that components such as remedial measures and procedures would be a typical condition of subdivision approval in the future. With respect to traffic, Mr. Kernahan stated there is no impact as the applications are made to adjust the boundary of the land. Mr. Kernahan indicated he was uncertain of the construction start date but suggested it may occur in approximately one year away due to a subsequent rezoning application and amendment to the draft plan.

In response to a request, Mr. Kernahan described the plan of subdivision approval process. In closing, Mr. Kernahan stated that Mountainview Homes is a big part of the community and has a vested interest in

ensuring each development is high quality.

Moved By John Cappa

Seconded By Brenda Stan

Application B2/2023P 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, is hereby: GRANTED;

The above decision is subject to the following conditions:

To the Satisfaction of the Director of Public Works

- 1. Confirm that no existing utilities cross the proposed lot line. Should any services cross this lot line, the applicant shall be responsible for costs associated with their relocation and/or removal.**
- 2. 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.**

To the Satisfaction of the Secretary-Treasurer

- 1. Pursuant to Section 50(12) of the Planning Act, R.S.O. 1990, as amended, it is hereby stipulated that Section 50(3) or 50(5) shall apply to any subsequent conveyance of, or other transaction involving, the identical subject parcel of land. Therefore, once the subject parcel of land has been conveyed to the owner of the parcel abutting to the south (Part 5 on sketch), the subject parcel and the said abutting parcel shall merge in title and become one contiguous parcel of land. A solicitor's written undertaking shall be provided to the Secretary-Treasurer indicating that the necessary steps to implement the conveyance will be taken, together with the registrable legal descriptions of the subject parcel and the consolidated parcel.**

2. That the Secretary-Treasurer be provided with a registrable legal description of the subject parcel, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.
3. That the final certification fee of \$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.

Application B3/2023P 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, is hereby: **GRANTED;**

The above decision is subject to the following conditions:

To the Satisfaction of the Director of Public Works

1. Confirm that no existing utilities cross the proposed lot line. Should any services cross this lot line, the applicant shall be responsible for costs associated with their relocation and/or removal.
2. 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.
3. Ensure the Secretary-Treasurer is provided with sufficient evidence indicating that the conveyance of a 5.0m wide storm sewer easement along the northerly boundary line of 1435 Station Street, Part 3 on the Consent Sketch, be deeded to the Town of Pelham. This transfer of easement shall be completed to the satisfaction of the Director of Public Works, in order to facilitate the boundary adjustment proposed in this application, said lands shall be conveyed free and clear of any mortgages, liens or encumbrances. All costs associated with this conveyance are the responsibility of the applicant.

To the Satisfaction of the Secretary-Treasurer

1. 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.
2. Pursuant to Section 50(12) of the Planning Act, R.S.O. 1990, as amended, it is hereby stipulated that Section 50(3) or 50(5) shall apply to any subsequent conveyance of, or other transaction involving, the identical subject parcel of land. Therefore, once the subject parcel of land has been conveyed to the owner of the parcel abutting to the south (Parts 4 & 5 on sketch), the subject parcel and the said abutting parcel shall merge in title and become one contiguous parcel of land. A solicitor's written undertaking shall be provided to the Secretary-Treasurer indicating that the necessary steps to implement the conveyance will be taken, together with the registrable legal descriptions of the subject parcel and the consolidated parcel.
3. 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.
4. 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.

The above decisions are based on the following reasons:

1. The application conforms to the policies of the Town of Pelham Official Plan, Regional Policy Plan and Provincial Policy Statement, and complies with the Town's Zoning By-law.
2. This Decision is rendered having regard to the provisions of Sections 51(24) and 51(25) of the Planning Act, R.S.O., as amended.
3. The Committee of Adjustment considered all written and oral submissions and finds that, subject to the conditions of

provisional consent, this application meets Planning Act criteria, is consistent with the Provincial Policy Statement and complies with the Growth Plan, the Niagara Region Official Plan and the Town Official Plan.

Carried

7.2 B3/2023P - 1435 Station Street

Consent file B3/2023P was considered concurrently with file B2/2023P.
Please see B2/2023P for minutes and decision.

8. Minutes for Approval

Moved By Isaiah Banach
Seconded By Brenda Stan

THAT the Committee of Adjustment minutes dated February 2, 2023 and February 7, 2023 be approved.

Carried

9. Adjournment

The hearing was adjourned at 5:32 pm.

Moved By Brenda Stan
Seconded By John Cappa

BE IT RESOLVED THAT this Meeting of the Committee of Adjustment be adjourned until the next regular meeting scheduled for April 3, 2023 at 4:00 pm.

Carried

Isaiah Banach, Chair

Sarah Leach, Secretary-Treasurer