

Committee of Adjustment**Minutes**

Meeting #: CofA 06/2023
Date: Monday, June 5, 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 Sarah Leach
Andrew Edwards
Gimuel Ledesma
Barbara Wiens

1. Attendance

Applicants, Agents and viewing members of the public via hybrid in-person and live-stream through the Town of Pelham YouTube Channel.

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.

3. Land Recognition Statement

Ms. Sarah Leach, Secretary-Treasurer, recited the land recognition statement.

4. Approval of Agenda

Moved By John Cappa

Seconded By Brenda Stan

THAT the agenda for the June 5, 2023 Committee of Adjustment meeting be adopted, as circulated.

Carried

5. Disclosure of Pecuniary Interest and General Nature Thereof

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

6. Requests for Withdrawal or Adjournment

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

7. Applications for Minor Variance

None.

8. Applications for Consent

8.1 Consent Cancellation - B3/2015P - 1161 Pelham Street

Moved By Brenda Stan

Seconded By John Cappa

THAT the Committee of Adjustment grant the cancellation of Consent File B3/2015P - 1161 Pelham Street.

Carried

8.2 B7/2023P - 1440 Pelham Street

Purpose of the Application

Application is made for consent to convey an easement in perpetuity over Part 1 on Reference Plan 59R-17025, to the benefit of Bell Canada for use of the existing underground conduit and cables to service 1450 Pelham Street. Part 1 on Reference Plan 59R-16172 and Part 1 on Reference

Plan 59R-17025 are to be retained for continued commercial use of the commercial building known municipally as 1440 Pelham Street.

Representation

The Agent, Robert Di Lallo was present.

Correspondence Received

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Hydro One

Applicants Comments

Mr. Di Lallo expressed support for the Staff recommendation report.

Public Comments

Ms. Leach, Secretary Treasurer indicated she checked the clerks@pelham.ca email address at 4:08 pm and confirmed no e-mails have been received with regard to the subject application. Ms. Leach indicated the public comment portion of the application could be closed. The Committee agreed to close the public portion of the meeting and deliberate.

Moved By John Cappa

Seconded By Brenda Stan

THAT the public portion of the meeting be closed.

Carried

Member Comments

The Members offered no comments or concerns.

Moved By John Cappa

Seconded By Brenda Stan

Application B7/2023P made for consent to convey an easement in perpetuity over Part 1 on Reference Plan 59R-17025, to the benefit of Bell Canada for use of the existing underground conduit and cables to service 1450 Pelham Street. Part 1 on Reference Plan 59R-16172 and Part 1 on Reference Plan 59R-17025 are to be retained for

continued commercial use of the commercial building known municipally as 1440 Pelham Street; is hereby: **GRANTED**;

The above decision is subject to the following conditions:

To the Satisfaction of the Secretary-Treasurer

1. 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.
2. 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.

This decision is based on the following reasons:

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

Carried

8.3 B10/2022P - 105 Welland Road

Purpose of the Application

Application is made for consent to partial discharge of mortgage and consent to convey 3893.15 square metres of land (Part 2), for future

residential development. Part 1 is to be retained for continued institutional use of Concordia Lutheran Church.

Representation

The Agent, William Heikoop of Upper Canada Consultants and Rocco Vacca of Sullivan Mahoney LLP were present.

Correspondence Received

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Hydro One
5. Brad Whitelaw
6. Georgio Panici
7. Karen Goldhawk
8. Heather Carter
9. Lori Bonito
10. Ruth Dallas
11. Kathleen Doyle
12. Terry Harford
13. John Guzzi
14. Karen Lynne
15. Murray and Helen Downie
16. Marilyn Rogge
17. Ron & Melanie Patterson
18. Nancy Ostrander
19. Natalie Diduch
20. Darlene and Terry Proveau
21. John Caron
22. Roman Shapoval
23. Chris Fisher

Applicants Comments

Mr. Vacca expressed support of the staff recommendation report and associated conditions. Mr. Vacca clarified that the only matter before the Committee of Adjustment (the "Committee") for consideration is the lot creation. He stated most public comments were relevant to the associated zoning by-law amendment application, not before the Committee.

Mr. Heikoop provided a short presentation to further explain the application. A copy is available through the Secretary-Treasurer.

Public Comments

Brad Whitelaw indicated he was representing numerous residents. Mr. Whitelaw stated the application does not conform to various sections of the Town of Pelham's Official Plan. He expressed concern regarding traffic and safety and indicated the proposal would exacerbate the existing issue. Mr. Whitelaw suggested the proposal is not in keeping with the intent and performance standards of the Zoning By-law. Mr. Whitelaw further suggested that an increase in storm water runoff would negatively affect drainage in the area. He stated the Town needs to upgrade existing stormwater management infrastructure. Mr. Whitelaw indicated the proposal does not protect or enhance the existing urban area.

A Member asked for the condition of drainage currently. Mr. Whitelaw indicated that any change from the existing parking lot would exacerbate drainage issues.

Natalie Diduch attested to the traffic concerns and identified an existing blind curve. Ms. Diduch indicated that surrounding businesses have already increased traffic and speed.

Dana Goldhawk indicated his lot on Woodside Square has an existing drainage issue. Mr. Goldhawk stated it is unsafe to pull out of Woodside Square. He expressed concern that the proposed development would exacerbate traffic issues.

Heather Carter supported the traffic concern and identified this location as the gateway to south Fonthill. Ms. Carter agreed the proposal would exacerbate existing traffic issues. Ms. Carter stated that this area of transition needs to be carefully considered.

Chris Fisher supported the traffic concern and indicated that both his vehicles had been involved in collisions throughout his residency in this area. Mr. Fisher requested the installation of sidewalks if there is to be development in the neighbourhood.

Mr. Vacca indicated a traffic impact study has been submitted, reviewed, and accepted. He further indicated that a stormwater management plan needs to be approved prior to development. Mr. Vacca indicated that through planning processes to come, identified issues will be eliminated. Mr. Vacca stated that issues related to zoning, the official plan, and character are not relevant to the severance.

Mr. Heikoop provided a brief history on the pending zoning by-law amendment application. He stated the existing zoning is Institutional and indicated the zoning by-law amendment application was submitted prior to the adoption of the new comprehensive zoning by-law. Mr. Heikoop stated the new zoning by-law now allows for an apartment dwelling within in this zone.

A Member asked if consideration was given to a second ingress/egress on Pelham Street. Mr. Heikoop responded that the second property would not have frontage on Pelham Street. He indicated that generally driveways are discouraged on high order roads.

Murray Downie indicated the traffic impact study did not consider increased traffic resulting from surrounding development outside of Welland Road. Mr. Downie expressed concern that increased traffic is a safety hazard.

Ms. Diduch requested a copy of the traffic impact study.

Ruth Dallas questioned the process of requesting relief from a by-law.

The Chair clarified the intent of the application before the Committee for consideration and differentiated the process of a severance and zoning by-law amendment.

Ms. Dallas expressed disagreement with the proposed building height. A Member responded with further clarification that much of the concerns expressed are not for the Committee to consider and will be addressed through separate planning processes. The Member explained that land subdivision is a common process for evolution.

Mr. Vacca reiterated that the zoning by-law amendment was submitted under the old zoning by-law and suspected that the proposal will be amended to retain the current zoning. Mr. Vacca confirmed the traffic impact study analyzes traffic and safety. Mr. Vacca further confirmed that no development can proceed without drainage being addressed.

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

Moved By John Cappa

Seconded By Brenda Stan

THAT the public portion of the meeting be closed.

Carried

Member Comments

The Chair thanked the gallery for their respectful, thoughtful comments. The Chair assured the development still has many steps to go. The Chair stated the subdivision of land makes sense for future use and satisfies with *Planning Act* tests. He concluded by advising that many of the issues raised will be addressed in future planning processes. A Member concurred with the comments of the Chair.

Moved By Brenda Stan

Seconded By John Cappa

Application B10/2022P made for consent to partial discharge of mortgage and consent to convey 3893.15 square metres of land (Part 2), for future residential development. Part 1 is to be retained for continued institutional use of Concordia Lutheran Church, is hereby: GRANTED;

The above decision is subject to the following conditions:

To the Satisfaction of the Director of Public Works

- 1. Obtain approval for a Driveway Entrance Permit, as applicable, through the Public Works department, to Town standards. The applicant shall bear all costs associated with these works.**
- 2. Confirm that no existing utilities cross the proposed new property line. Should any services cross the new property line, the applicant shall be responsible for costs associated with their relocation and/or removal.**
- 3. Install sanitary and water service connections for Part 2 at the owner's expense. The applicant shall obtain a Temporary Works Permit through the Public Works department prior to commencing work.**

To the Satisfaction of the Director of Community Planning & Development

1. **Sign the Town of Pelham's standard "Memorandum of Understanding" explaining that development charges and cash-in-lieu of the dedication of land for park purposes are required prior to the issuance of a Building Permit.**
2. **Obtain site plan approval for the relocated parking and entrance, grading and drainage and landscaping improvements/requirements on Part 1.**
3. **Conduct a Stage 1-2 Archaeological Assessment prepared by a licensed archaeologist and receive clearance from the Ministry of Heritage, Sport, Tourism & Culture. At a minimum, the Assessment must cover the building envelope of the proposed lot eligible for disturbance and be accepted by the Ministry prior to clearance of this condition. The licensed archaeologist may recommend further archaeological analysis or preservation steps be taken. No demolition, grading or other soil disturbances shall take place on the subject land prior to the issuance of a Ministry letter confirming that all archaeological resource concerns have been mitigated and meet licensing and resource conservation requirements.**

To the Satisfaction of the Secretary-Treasurer

1. **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.**
2. **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.**

This decision is based on the following reasons:

1. **The application conforms to the policies of the Town of Pelham Official Plan, Regional Policy Plan and Provincial Policy Statement, and complies with the Town's Zoning By-law.**
2. **This Decision is rendered having regard to the provisions of Sections 51(24) and 51(25) of the Planning Act, R.S.O., as amended.**

3. **The Committee of Adjustment considered all written and oral submissions and finds that, subject to the conditions of provisional consent, this application meets Planning Act criteria, is consistent with the Provincial Policy Statement and complies with the Growth Plan, the Niagara Region Official Plan and the Town Official Plan.**

Carried

9. Minutes for Approval

Moved By Isaiah Banach

Seconded By Brenda Stan

THAT the Committee of Adjustment minutes dated March 6, 2023, and May 1, 2023, be approved.

Carried

10. Adjournment

The meeting adjourned at 5:25 pm.

Moved By John Cappa

Seconded By Brenda Stan

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

Carried

Isaiah Banach, Chair

Sarah Leach, Secretary-Treasurer