



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

Tuesday, September 05, 2023

Minor Variance Application: A17-2023P

Municipal Address: 1022 Haist Street

**Legal Description: Part of Lot 3, Concession 10, being Parts 1 and 2 on
59R-9964 (Part 1 on Sketch)**

Roll number: 2732 030 012 08200

Nature and Extent of Relief/ Permission Applied for:

The subject land is located on the west side of Haist Street, lying south of Welland Road, being Part of Lot 3, Concession 10, being Parts 1 and 2 on 59R-9964, in the Town of Pelham.

The subject land is zoned Residential 1 (R1) in accordance with Pelham Zoning By-law 4481(2022), as amended. Application for relief is made, to facilitate the construction of an attached accessory garage. The requested relief will rectify a rear yard zoning deficiency as a result of consent application B11/2023P and recognize the existing front yard setback. The applicant seeks relief from the following sections of the Zoning By-law:

- a) **Section 6.1.2 "Maximum Front Yard"** – to permit a maximum front yard setback of 10.8m whereas the by-law requires a maximum of 6.0m; and,
- b) **Section 6.1.2 "Minimum Rear Yard"** – to permit a minimum rear yard setback of 1.2m whereas the bylaw requires a minimum of 7.5m.

The parcel is a corner lot having 30.48 metres of frontage along Welland Road and 32.87 metres of frontage along Haist Street. The parcel currently has two driveway accesses, one on each road frontage. The area of the site is approximately 964.7 m² in lot area. Please note the front lot line of the parcel is considered the northerly property line (along Welland Road). Accordingly, the southern property line is considered the rear lot line, and the Haist Street frontage is considered an exterior side lot line.

Please note this application is being heard concurrently with application for consent B11/2023P, which seeks to adjust the boundary line between the subject lands and neighbouring property at 1008 Haist Street. The consent application seeks to merge approximately 91.0 m² of lot area and 2.22 metres of frontage along Hasit Street to the subject lands.

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 land is in a 'Settlement Area' according to the PPS. Policy 1.1.3.1 states that settlement areas shall be the focus of growth and development.

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

Policy 2.6.2 of the PPS does not permit development and site alteration on lands containing archaeological resources unless significant archaeological resources have been conserved. The lands are identified as displaying composite archaeological potential per the Town's Archaeological Master Plan. Notwithstanding, the area in which the garage is proposed appears to have been previously disturbed. Accordingly, an archaeological assessment will not be required.

Staff are of the opinion that the proposed variance is 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 Growth Plan policies aim to build stronger, prosperous communities by directing growth to built-up areas, promoting transit-supportive densities and a healthy mix of residential and employment land uses, preserving employment areas, planning for community infrastructure, and supporting the conservation and protection of natural systems, prime agricultural areas, and cultural heritage.

The subject lands are located within the Delineated Built Boundary, being the settlement area of Fonthill. The application is generally consistent with the policies of the Growth Plan.

Staff are of the opinion that the proposed variance conforms with the Growth Plan.

Regional Official Plan (Adopted 2022)

The Region of Niagara adopted a new Regional Official Plan (ROP) on June 23, 2022. It was approved by the Province in November 2022.

Policy 2.2.2.5 now requires that across the Region 60% of all residential units occurring annually are to be in the Build-Up Areas and in Pelham, this translates into an annual intensification rate of 25% of new residential units are to be within the Built-Up Area. The principle objective is to increase housing choice and housing affordability across the Region to meet future housing needs.

Policy 2.2.1.1 states that development in urban areas will integrate land use planning and infrastructure planning to responsibly manage forecasted growth and to support intensification, compact built form, a mix of land uses, and a diverse range and mix of housing.

Policy 2.3.1.4 also provides that new residential development and residential intensification are encouraged to be planned and designed to mitigate and adapt to the impacts of climate change by facilitating compact built form and incorporating sustainable housing construction materials or practices, green infrastructure, energy conservation standards, water efficient technologies, and low impact development.

Planning staff are of the opinion the proposed variance confirms with the Regional Official Plan.

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 subject lands are designated Urban Living Area / Built Boundary according to the Town's Official Plan. The purpose of the Urban Living Area designation is to recognize the existing residential areas of Fonthill and Fenwick and promote the efficient use of existing and planned infrastructure by creating the opportunity for various forms of residential intensification, where appropriate. All types of residential uses are permitted in the 'Urban Living Area/Built Boundary' designation.

Policy A2.2.2 Growth & Settlement – states that it is a goal of this Plan to encourage the majority of development to the Urban Area where full sewer and water services are available. An objective is to encourage intensification and redevelopment within the Urban Area.

Section A2.3 speaks to the goals and objectives of the urban character across the Town. It is a goal of the Official Plan to protect and enhance the character of existing Urban Areas and to ensure development and redevelopment is compatible with the scale and density of existing development. The scale of the proposed garage addition is generally consistent with the surrounding neighbourhood. The character of the neighbourhood will be maintained.

Section E1.5 of the Official Plan speaks to minor variances. The policy outlines the four tests of a minor variance (discussed below) and stipulates that in making a determination of whether a variance is minor as required in Item Four, Committee shall 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. Additionally, the policy states that applicants who request a minor variance should be prepared to demonstrate a need for the requested relief on the basis that the subject zoning provision is not warranted in a particular circumstance, causes undue hardship, or is otherwise impossible to comply with. The applicant provided a planning justification brief providing an analysis of the requested variances.

Staff are of the opinion that the proposed variance conforms with the Town of Pelham Official Plan.

Town of Pelham Zoning By-law No. 4481 (2022)

The subject lands are zoned Residential One (R1) according to Schedule 'C' of the Town's Comprehensive Zoning By-law. The R1 zone permits a single detached dwelling and uses, buildings, and structures accessory thereto. Under the regulations of the R1 zone, the minor variance applications requests relief from:

- a) **Section 6.1.2 "Maximum Front Yard"** – to permit a maximum front yard setback of 10.8m whereas the by-law requires a maximum of 6.0m; and,
- b) **Section 6.1.2 "Minimum Rear Yard"** – to permit a minimum rear yard setback of 1.2m whereas the bylaw requires a minimum of 7.5m.

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>Section 6.1.2 "Maximum Front Yard"</p> <p>The variance seeks to increase the maximum front yard setback to 10.8 metres, whereas the permitted maximum setback is 6.0 metres. The variance is not a result of new construction, rather it recognizes an existing deficiency from a new provision introduced in the 2022 Zoning By-law. In the case of a corner lot, the Zoning By-law defines the front lot line as the shorter streetline (northerly lot line). The longer streetline shall be deemed to be an exterior side lot line (easterly lot line).</p> <p>As the Welland Road frontage of the site is the shorter streetline, it is considered the front lot line, notwithstanding the northerly lot line functions as a side yard. Thus, the front yard setback is measured from the northerly lot line to the nearest structure. No new construction is proposed that necessitates the variance. The variance is requested to recognize existing conditions.</p> <p>Staff are of the opinion that the requested variance is minor in nature.</p> <p>Section 6.1.2 "Minimum Rear Yard"</p> <p>The variance seeks to permit a minimum rear yard setback of 1.2m whereas the By-law requires a minimum of 7.5m. The setback, although technically defined as a rear yard, functions as an interior side yard between two existing single detached dwellings (the adjacent dwelling at 1008 Haist). The site hosts amenity space in the westerly side yard, which functions as a rear yard. There remains adequate rear yard amenity space to service the dwelling. The reduction in the rear yard will not substantially alter the functionality of the amenity space.</p> <p>Staff are of the opinion that the requested variance is minor in nature.</p>
The variance is desirable for the development or use of the land.	<p>Section 6.1.2 "Maximum Front Yard"</p> <p>Yes. The variance recognizes existing conditions on site. No new construction is proposed in the front yard. The increase in the maximum front yard will have no impact on the Welland Road streetscape. The use and function of the site will not be changed through the proposed variance, and as such it is considered desirable for the development of the lands.</p> <p>Section 6.1.2 "Minimum Rear Yard"</p> <p>Yes. The requested variance is desirable for the development or use of the land. The requested variance is not anticipated to have a significant negative impact on the streetscape or adjacent properties as the existing dwelling will be maintained. The reduction to the rear yard setback in this instance is desirable as appropriate private amenity area will be maintained on the site in the interior side yard. The rear yard functions as an interior side yard, and as such, the impact of the reduction is minimal. The scale of the proposed attached garage will not affect the original intent of the building design.</p>

	<p>Staff are of the opinion the variance is desirable for the development or use of the land.</p>
<p>The variance maintains the general intent and purpose of the Zoning By-law.</p>	<p>Section 6.1.2 "Maximum Front Yard"</p> <p>Yes. The requested variance seeks to increase the maximum front yard setback to the face of a dwelling. The intent of the maximum front yard setback is to enhance the streetscape through encouraging shallower front yard setbacks. Shallow front yards are intended to facilitate compact built form, increase safety through traffic calming and framing of the street, provide for eyes-on-the-street, and facilitate a human-scaled development. Further, it is the intent of the maximum front yard setback to ensure the face of the dwelling projects past the garage.</p> <p>The variance recognizes existing conditions of the site. Notwithstanding an increase to the maximum front yard setback is requested, the front yard of the dwelling functions as a side yard.</p> <p>Staff are of the opinion that that intent and purpose of the zoning by-law is maintained.</p> <p>Section 6.1.2 "Minimum Rear Yard"</p> <p>Yes. The variance maintains the general intent and purpose of the Zoning By-law. The intent of the rear yard setback is to ensure separation distance between abutting residential uses and to ensure there remains adequate amenity area for the lot in question.</p> <p>The parcel will maintain adequate rear and side yard amenity space. The reduced rear yard setback is not anticipated to have a significant visual impact.</p> <p>Staff are of the opinion that that intent and purpose of the zoning by-law is maintained.</p>
<p>The variance maintains the general intent and purpose of the Official Plan.</p>	<p>Section 6.1.2 "Maximum Front Yard"</p> <p>Yes. The requested variance is considered to maintain the general intent and purpose of the Official Plan. Staff are of the opinion that the requested variance is not considered to have significant impacts within the context of the Official Plan. The variance will have no impact on the streetscape as viewed from Welland Road as it is recognizing existing conditions.</p> <p>Staff are of the opinion the variance maintains the general intent and purpose of the Official Plan.</p> <p>Section 6.1.2 "Minimum Rear Yard"</p> <p>Yes. The requested variance is considered to maintain the general intent and purpose of the Official Plan. The subject land's use is within the permitted use of the Urban Living Area / Built Boundary designation. Townhouse dwellings are a permitted use in this designation. An objective of the OP is to ensure new development shall maintain and enhance the character and stability of existing and well-established residential neighbourhoods with regards to scale and density.</p>

	<p>Staff are of the opinion that the requested variance is not considered to have significant impacts within the context of the Official Plan. The proposed garage addition is generally in keeping with the low-density residential character of the neighbourhood.</p> <p>Staff are of the opinion the variance maintains the general intent and purpose of the Official Plan.</p>
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Agency and Public Comments:

On July 28, 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
 - No comments.
- Public Works Department
 - Please be advised that no sideyard walkways that impede sideyard swales shall be permitted.

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

Planning Staff Comments:

Planning staff have reviewed all supporting materials as well as reviewed all agency and public correspondence submitted to date and offer the following for the Committee's consideration.

The requested variances are appropriate as they will not result in shadowing, will allow for the continued use of the side yard as private amenity space, will not alter the function of the subject property, and are not anticipated to alter the streetscape in a significant way.

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.

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 A17/2023P **be approved** subject to the following condition(s):

THAT the applicant:

- That all necessary building permits be acquired prior to construction commencing, to the satisfaction of the Chief Building Official.
- That the approval of the minor variance A17/2023P is subject to the final certification of Consent File and B11/2023P.
- Town staff will require a comprehensive lot grading and drainage plan demonstrating that storm water runoff will not negatively impact nor rely upon neighboring properties, to the satisfaction of the Director of Public Works or his designate.
- 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.

Prepared and Submitted by:

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Planner

Recommended by:

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