



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

Tuesday, September 05, 2023

**Consent Application: B11-2023P**

**Municipal Address: 1008 Haist Street**

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

**Roll number: 2732 030 012 08300**

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

The subject parcel, shown as Part 2 on the attached sketch, has a frontage of 2.22m on the west side of Haist Street, lying south of Welland Road being Part of Lot 3, Concession 10, being Part 3 on Plan 59R-9964 in the Town of Pelham.

Application is made for consent to convey 91.0 square metres of land (Part 2), to be added to the abutting property to the north (Part 1 – 1022 Haist Street), for future construction of a detached accessory garage. Part 3 is to be retained for continued residential use of the dwelling known municipally as 1008 Haist Street.

This application is being considered concurrently with Minor Variance File A17/2023P.

**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;
  - a. Refer to PPS and Growth Plan analysis in sections below.
- b) Whether the proposed subdivision is premature or in the public interest;
  - a. 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;
  - a. See Official Plan discussion below.
- d) The suitability of the land for such purposes;
  - a. Refer to analysis in Planning Analysis sections below.
- f) The dimensions and shapes of the proposed lots;

- a. The dimensions and shapes of the lots following the boundary adjustment are appropriate.
- h) Conservation of natural resources and flood control;
  - a. See planning analysis sections below.
- i) The adequacy of utilities and municipal services;
  - a. Servicing is available to adequately service the lands.
- j) The adequacy of school sites;
  - a. 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 in 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 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 boundary adjustment 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.

Accordingly, Staff is of the opinion that the proposed boundary adjustment is in keeping with the policies of the Growth Plan.

### Niagara Region Official Plan (2022)

The Region of Niagara adopted a new Regional Official Plan (ROP) 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. It is noted that the proposed consent provides for a boundary adjustment between two existing urban residential lots to facilitate a building addition on one of the lots, no new lot is being created.

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.

The local Official Plan designates the subject land as 'Urban Living Area/Built Boundary' on Schedule 'A1.'

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. Minor variance application is being heard concurrently to address maximum front yard and minimum rear yard setback deficiency.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
  - ✓ Satisfied. Both the lots have an appropriate water supply and means of sewage disposal (municipal infrastructure).
- e) Will not have a negative impact on the drainage patterns in the area;
  - ✓ Yes. 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.
- f) Will not affect the develop ability of the remainder of the lands, if they are designated for development by this Plan;
  - ✓ Each lot contains an existing single detached residential use, the proposed boundary adjustment will facilitate a building addition on one of the lots.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
  - ✓ No negative impact.
- h) Conforms with Regional lot creation policy as articulated in the Regional Policy Plan; and,
  - ✓ Yes, conforms to the ROP and no objection from Region Development Services Division.
- i) Complies with the appropriate provincial Minimum Distance Separation Formulae, where applicable.
  - ✓ N/A.

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.

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

#### Town of Pelham Comprehensive Zoning By-law 4481 (2022)

The subject lands are zoned Residential 1 (R1). A minor variance application is being heard concurrently to address deficiencies in maximum front yard setback and minor rear yard setback. Upon granting of the minor variance both the severed and retained lots will be in keeping with the Zoning By-law.

#### **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:**

A pre-consultation meeting was held with the applicant of the property and staff from the Town and Niagara Region Planning & Development Services on July 7, 2022, 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.

The resulting parcels comply with application Zoning By-law Regulations (upon granting of concurrent minor variance application) and should not negatively impact the surrounding neighbourhood with respect to traffic, privacy, and stormwater management.

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

**Planning Staff Recommendation:**

Planning staff recommend that minor variance file B11/2023P **be approved** subject to the following condition(s):

**THAT** the applicant:

- Ensure Part 2 merges on title with Part 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.
- 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.
- Submit a comprehensive Lot Grading & Drainage Plan demonstrating that the drainage neither relies, nor negatively impacts neighbouring properties, to the satisfaction of the Director of Public Works, or 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:**

Andrew Edwards, BES  
Planner

**Recommended by:**

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