

Committee of Adjustment
Minutes

Date: Tuesday, September 5, 2023
Time: 4:00 pm
Location: Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

Members Present Brenda Stan
Don Rodbard
John Cappa

Members Absent Colin McCann
Isaiah Banach

Staff Present Sarah Leach
Andrew Edwards
Derek Young
Jodi Legros

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 Cappa 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 Don Rodbard

Seconded By Brenda Stan

THAT the agenda for the September 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. Leach indicated that the notice requirements for files B11/2023P and A17/2023P were not met and therefore, the applications would not proceed. Ms. Leach indicated that staff would re-schedule the applications for the next hearing.

The applicant, Mr. Harper, requested that Committee waive the re-circulation fee for both applications.

The Committee unanimously agreed to waive both application fees.

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

7. Applications for Consent

7.1 B11/2023P - 1008 Haist Street

File B11/2023P was adjourned until the next hearing due to the unfulfillment of notice requirements.

7.2 B12/2023P - 305 Canboro Road

Purpose of the Application

Application made for consent to convey 4791.7 square metres of land (Part 1), for continued residential use of 305 Canboro Road. Part 2 is to be retained for continued agricultural use.

Representation

The Agent, Dennis Savriga and the Applicant, Stanley Rutyna were present.

Correspondence Received

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Niagara Region
5. Hydro One
6. Bobbi Lococo
7. Luc Arvisais

Applicants Comments

The agent, Mr. Dennis Savriga, discussed the nature of the application. Mr. Savriga expressed objection to the recommended conditions for a grading and drainage plan and rezoning.

The Chair indicated the condition for a grading and drainage plan was identified by the Town and asked if the applicant had investigated drainage on the property. Mr. Savriga indicated the applicant is aware of the drainage on the property.

Derek Young, Manager of Engineering, stated the condition is a standard, precautionary requirement for severances and is meant to identify the drainage on the property and ensure neighbouring property owners will not be adversely affected. Mr. Young indicated the need to identify the current drainage pattern, which can be referenced during future development.

Ms. Savriga expressed concern regarding cost and time associated with fulfilling the requested conditions.

The Chair asked why a rezoning condition is requested.

Andrew Edwards, Town Planner, stated that rezoning the property to agricultural purposes only would restrict future residential development. He indicated the current zoning permits additional residential development.

Public Comments

Lise Daniel and Bobbi Lococo expressed support for the imposition of a drainage condition. Ms. Daniel expressed concern about parking.

The Chair asked both participants if they have experienced water damage. Ms. Lococo stated she has two sump pumps running constantly and would experience water damage if they failed.

The Chair expressed understanding of the Town's cautionary approach.

Ms. Leach, Secretary Treasurer indicated she checked the clerks@pelham.ca email address at 4:44 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

Moved By Brenda Stan

Seconded By John Cappa

THAT the public portion be closed.

Carried

The Members offered no additional comments.

Moved By Brenda Stan

Seconded By Don Rodbard

THAT Application B12/2023P is made for consent to convey 4791.7 square metres of land (Part 1), for continued residential use of 305 Canboro Road. Part 2 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 submit a comprehensive overall Lot Grading & Drainage Plan for all Parts demonstrating that drainage neither relies upon, nor negatively impacts adjacent properties, and that all drainage will be contained within their respective lots, to the satisfaction of the Director of Public Works, or designate.**
- 2. Confirm that no existing utilities cross the proposed lot line. In the event that services do cross, the applicant shall be**

responsible for the costs and responsibility of their relocation and/or removal

To the Satisfaction of the Director of Community Planning & Development

- 1. That Part 2 be rezoned to an Agricultural Purposes Only (APO) Zone.**

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

7.3 B13/2023P - 1053 Pelham Street - Part 4

Files B13/2023P and B14/2023P were heard concurrently.

Purpose of the Application

Application B13/2023P is made for consent to partial discharge of mortgage and consent to convey 280.9 square metres of land (Part 4), for future construction of a single detached dwelling. Part 1 is to be retained for continued residential use of the dwelling known municipally as 1053 Pelham Street.

Application B14/2023P is made for consent to partial discharge of mortgage and consent to convey 168.3 square metres of land (Parts 5 and 6), to be added to the abutting property to the north (Part 4), for future development of a single detached dwelling. Parts 2 and 3 are to be retained for continued residential use.

Representation

The Agent, William Heikoop from Upper Canada Consultants and the Applicants, Lou and Daniela Biagi were present.

Correspondence Received

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building

Applicants Comments

Mr. Heikoop provided a short presentation to further explain the applications.

Public Comments

Ms. Leach, Secretary Treasurer indicated she checked the clerks@pelham.ca email address at 5:00 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 Brenda Stan

Seconded By Don Rodbard

THAT the public portion be closed.

Carried

Member Comments

The Members offered no comments.

Moved By Brenda Stan

Seconded By Don Rodbard

THAT Application B13/2023P is made for consent to partial discharge of mortgage and consent to convey 280.9 square metres of land (Part 4), for future construction of a single detached dwelling. Part 1 is to be retained for continued residential use of the dwelling known municipally as 1053 Pelham Street, 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 obtain a Driveway Entrance and Culvert Permits for Part 1 and Part 4 from the Public Works department for the construction of all new or modification of existing driveways or entrances. The installation and/or modification of all entrances shall be completed in accordance with Town Standards and to the satisfaction of the Director of Public Works.**
- 2. That the applicant confirm that no existing utilities currently cross the proposed new property line to the satisfaction of the Director of Public Works. Should any services cross this new property lines, the applicant will be responsible for costs associated with their relocation and/or removal.**
- 3. Prepare the easement documents and register the proposed drainage easement (Parts 3, 6, and 7) on title to the satisfaction of the Director of Public Works.**
- 4. That the applicant submit an overall Lot Grading and Drainage Plan to demonstrate that the drainage does not negatively impact nor rely on neighboring properties to the satisfaction of the Director of Public Works for Parts 1-6. Such grading**

plans shall include the requirement of new catch basin in Part 3 to the benefit of Part 2.

To the Satisfaction of the Director of Community Planning & Development

- 1. That all necessary zoning approvals (minor variance) be obtained for Part 4 to the satisfaction of the Director of Community Planning and Development.**
- 2. That a Demolition Permit be obtained, prior to the demolition of the existing garage on Part 4 and the garage be demolished to the satisfaction of the Chief Building Official.**

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 (Parts 5 & 6 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.**
- 2. That the Secretary-Treasurer be provided with a registrable legal description of the subject parcel and the consolidated 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.**

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.**
- 4. The applicant is aware the future Part 2 is to be individually serviced with its own sanitary and water connections. This work is to be done by the owner, at the owner's expense, and will require a Temporary Works Permit.**

Carried

Moved By Brenda Stan

Seconded By Don Rodbard

THAT Application B14/2023P made for consent to partial discharge of mortgage and consent to convey 168.3 square metres of land (Parts 5 and 6), to be added to the abutting property to the north (Part 4), for future development of a single detached dwelling. Parts 2 and 3 are to be retained for continued residential use, is hereby GRANTED;

The above decision is subject to the following conditions

To the Satisfaction of the Director of Public Works

- 1. The applicant submit an overall lot grading and drainage plan for Parts 1-6 to demonstrate that the drainage does not negatively impact nor rely on neighboring properties to the satisfaction of the Director of Public Works. Such grading plans shall include the requirement of new catch basin in Part 3 to the benefit of Part 2.**

2. That the applicant confirm that no existing utilities currently cross the proposed new property line to the satisfaction of the Director of Public Works. Should any services cross this new property lines, the applicant will be responsible for costs associated with their relocation and/or removal.
3. The applicant obtains a Driveway Entrance and Culvert Permit from the Public Works department for the construction of all new or modification of existing driveways or entrances. Installation and/or modification of all entrances shall be completed in accordance with Town Standards to the satisfaction of the Director of Public Works.
4. Prepare easement documents and register the proposed drainage easement (Parts 3, 6, and 7) on title to the satisfaction of the Director of Public Works.

To the Satisfaction of the Director of Community Planning & Development

1. That all necessary zoning approvals (minor variance) be obtained for Part 4 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 north (Part 4 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.
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.

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.
4. The applicant is aware the future Part 2 is to be individually serviced with its own sanitary and water connections. This work is to be done by the owner, at the owner's expense, and will require a Temporary Works Permit.
5. The applicant is aware the tree preservation zone west of the driveway would require protection and preservation.

Carried

7.4 B14/2023P - 1053 Pelham Street - Parts 2 & 3

File B14/2023P was heard concurrently with file B13/2023P. See file B13/2023P for minutes and decisions.

8. Applications for Minor Variance

8.1 A17/2023P - 1022 Haist Street

File A17/2023P was adjourned until the next hearing due to the unfulfillment of notice requirements.

8.2 A18/2023P - 1053 Pelham Street - Part 1

Files A18/2023P and A19/2023P were considered concurrently.

Purpose of the Application

Application A18/2023P for relief is made to recognize zoning deficiencies resulting from Consent File B13/2023P. The applicant seeks relief from the following section(s) of the Zoning By-law: Section 3.7 “Encroachments – Decks (uncovered)” – to permit an uncovered deck encroachment of 6.42m into the required rear yard, whereas an encroachment of 4.0m is permitted; Section 6.1.2 “Minimum Rear Yard” – to permit a minimum rear yard setback of 4.7m whereas the by-law requires a minimum rear yard setback of 7.5m.

Application A19/2023P for relief is made to facilitate the construction of a single detached dwelling. The applicant seeks relief from the following section(s) of the Zoning By-law: Section 6.1.2 “Minimum Lot Frontage” – to permit a minimum lot frontage of 12.25m whereas the by-law requires a minimum lot frontage of 15.0m.

Representation

The Agent, William Heikoop from Upper Canada Consultants and the Applicant, Lou Biagi were present.

Correspondence Received

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building

Applicants Comments

Mr. Heikoop stated the variances meet the four tests and are desirable for the properties.

Public Comments

Ms. Leach, Secretary Treasurer indicated she checked the clerks@pelham.ca email address at 5:15 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 Brenda Stan
Seconded By John Cappa

THAT the public portion be closed.

Carried

Member Comments

A Member asked if the trees along Pelham Street were being maintained. Mr. Heikoop indicated the driveway would be installed in a position to save the trees and not disturb the tree preservation area.

The Chair asked for the thought process regarding the deck variance. Mr. Heikoop stated the deck will be refreshed during the renovation process. He stated it was not to be removed as it functions well. Mr. Heikoop confirmed the deck has a basic foundation.

Moved By Don Rodbard
Seconded By Brenda Stan

THAT Application A18/2023P for relief of Section 6.1.2 “Minimum Rear Yard” – to permit a minimum rear yard setback of 4.7m whereas the by-law requires a minimum rear yard setback of 7.5m, 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 have a significant negative impact on the streetscape or adjacent properties. Adequate area does exist on the property to provide for appropriate outdoor amenity area.**
- 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 as appropriate private amenity area will be maintained on the site in the interior side yard.**

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.
7. The applicant is aware that no side yard walkways that impede swales shall be permitted.

Application for relief of Section 3.7 “Encroachments – Decks (uncovered)” – to permit an encroachment of 6.42m into the required rear yard, whereas an encroachment of 4m is permitted. Is hereby GRANTED;

The above decision is based on the following reasons:

1. The variance is minor in nature as the increased encroachment of the uncovered deck is not anticipated to result in a negative impact on the adjacent uses or substantially remove any of the rear yard amenity area of the lot. Further, there will be no shadowing impact and its presence would not encroach on neighbouring parcels’ private amenity space.
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 the deck will enhance the outdoor 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.
7. The applicant is aware that no side yard walkways that impede swales shall be permitted.

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 approval of the minor variance A18/2023P is subject to the final certification of Consent Files B13/2023P and B14/2023P.**
- 2. To the Satisfaction of the Director of Public Works**
 - 1. That 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.**

Carried

THAT Application A19/2023P for relief of Section 6.1.2 “Minimum Lot Frontage” – to permit a minimum lot frontage of 12.25m whereas the by-law requires a minimum lot frontage of 15.0m, is hereby GRANTED;

The above decision is based on the following reasons:

- 1. The variance is minor in nature as adverse impacts are not anticipated to the streetscape. The resulting built form is generally consistent with the existing neighbourhood from a land use, orientation and massing perspective and is considered an appropriately sensitive form of infill redevelopment.**
- 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 allow for a single detached residential dwelling in the low density R1 zone.**
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.**
7. **The applicant is aware that no side yard walkways that impede side yard swales shall be permitted.**

The above decision is 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 approval of the minor variance A19/2023P is subject to the final certification of Consent Files B13/2023P and B14/2023P.**
2. **To the Satisfaction of the Director of Public Works**
 1. **That 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.**
 2. **Obtain approval for a Driveway Entrance & Culvert Permit, as applicable, issued through the Public Works department, to Town standards. The applicant shall bear all costs associated with these works.**

8.3 A19/2023P - 1053 Pelham Street - Part 4

File A19/2023P was heard concurrently with file A18/2023P. See file A18/2023P for minutes and decision.

9. Minutes for Approval

Moved By Brenda Stan

Seconded By Don Rodbard

THAT the Committee of Adjustment minutes dated July 4, 2023, be approved.

Carried

10. Adjournment

The meeting was adjourned at 5:18 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 October 3, 2023 at 4:00 pm.

Carried

John Cappa, Chair

Sarah Leach, Secretary-Treasurer