



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

Monday, March 04, 2024

**Minor Variance Application: A2-2024P**

**Municipal Address: 801 Canboro Road & 1126 Maple Street**

**801 Canboro Road: Part of Lot 2A, Lot 1A, Plan 16, NP 703**

**1126 Maple Street: Lots 2 & 3, Plan 16, NP 703**

**Roll number: 2732 010 015 06800 & 2732 010 015 16700**

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**Nature and Extent of Relief/ Permission Applied for:**

The subject lands are located on the north side of Welland Road, lying West of Canboro Road in the Town of Pelham. The lands are comprised of two parcels, known municipally as 801 Canboro Road and 1126 Maple Street. The Owner also requested a Deeming By-law approval from Council to merge 801 Canboro Road with 1126 Maple Street.

The subject land is zoned Village Commercial (VC) in accordance with Pelham Zoning By-law 4481 (2022), as amended. Application for relief is made, to facilitate an addition on the north side of the building to the existing structure in the southwest corner of the parcel. The Owner has received approval from Council to merge 801 Canboro Road with 1126 Maple Street through a Deeming By-law. The applicant seeks relief from the following section(s) of the Zoning By-law:

- **Section 8.1.3 "Minimum Rear Yard Setback"** – to permit a minimum rear yard setback of 2.8 metres whereas a minimum 6.0 metre setback is required;
- **Section 8.1.3 "Maximum Side Yard Setback"** – to permit a maximum side yard setback of 15.3 metres whereas a maximum 1.2 metre maximum side yard is permitted;
- **Section 4.3.1 "Short-term Bicycle Parking"** – to permit 0 spaces whereas a minimum of 4 spaces is required; and
- **Section 4.3.1 "Long-term Bicycle Parking"** – to permit 0 spaces whereas a minimum of 1 long-term space is required.

The lands have frontage on both Canboro Road and Maple Street. There are currently two structures located on the subject lands, including the existing garage, and existing two storey structure consisting of an office area and residential use. The property is irregular in shape. As noted above, the lands are comprised of two parcels, known municipally as 801 Canboro Road and 1126 Maple Street. Upon registration of the Deeming By-law, Maple Street will be considered the frontage of the site and Canboro Road would be considered an exterior side yard. Merging the properties on title is necessary to ensure compliance with the Zoning By-law. An 85 square metre

addition is proposed to the existing garage in the southwest of the site.

The Owner has submitted a site plan control application (Town File: SP-06-2023) which was reviewed by planning staff. The application received conditional approval, subject to conditions, one of which being applying for and receiving approval for a minor variance application.

### **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"). A discussion of the four tests is included below.

#### 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.

Staff are of the opinion that the proposed variance is consistent with the Provincial Policy Statement.

#### 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 subject lands are located within the Delineated Built Boundary, being the settlement area of Fenwick. 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. The subject lands are recognized as Built-Up Area in the Regional Official Plan.

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:

- a) the intensification targets in Table 2-2 and density targets outlined in this Plan (Note Pelham's intensification target is 25%);
- b) a compact built form, a vibrant public realm, and a mix of land uses, including residential uses, employment uses, recreational uses, and public service facilities, to support the creation of complete communities;

Planning staff are of the opinion the proposed variance conforms 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 Downtown according to Schedule A2. The scale and location of new development in the Downtown area is to maintain and enhance the character of the Downtown areas; in Fenwick the promotion of a "village character" is encouraged, emphasised by smaller one and two storey village residential housing form with adequate space and setback to accommodate landscaping and urban patios.

Section B1.2.4.3 of the Official Plan provides development and urban design policies specific to the Downtown designation. These policies encourage buildings be built at or near the front lot line, pushing parking to the rear of sites, and encourage a high degree of architectural quality including the use of glazing.

Section E1.5 states in part:

*... 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 cover letter which detailed the variance request. The variances are sought in part due to the irregular lot shape.

Planning staff are of the opinion the proposed variance conforms with the Town of Pelham's Official Plan.

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

The subject lands are zoned Village Commercial in accordance with Town of Pelham Zoning By-law No. 4481. Under the regulations of the Zoning By-law, the minor variance application requests relief from:

- **Section 8.1.3 "Minimum Rear Yard Setback"** – to permit a minimum rear yard setback of 2.8 metres whereas a minimum 6.0 metre setback is required;
- **Section 8.1.3 "Maximum Side Yard Setback"** – to permit a maximum side yard setback of 15.3 metres whereas a maximum 1.2 metre maximum side yard is permitted;
- **Section 4.3.1 "Short-term Bicycle Parking"** – to permit 0 spaces whereas a minimum of 4 spaces is required; and
- **Section 4.3.1 "Long-term Bicycle Parking"** – to permit 0 spaces whereas a minimum of 1 long-term space is required.

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
<b><i>The variance is minor in nature.</i></b>	<p><b><i>Section 8.1.3 - Minimum Rear Yard Setback</i></b></p> <p>Yes, the variance is minor in nature. The westerly property line of the subject lands is considered the rear lot line. The existing garage maintains a setback of approximately 3.05 metres from this lot line. The proposed addition is designed as a natural extension to the existing building. As the existing building is not parallel to the rear lot line, the setback is slightly less than that of the existing structure. Notwithstanding the required setback of the Village Commercial (VC) zone is 6 metres, this lot line functions an interior lot line. Restricting the ability of the structure to be located in the rear yard poses challenges for the placement of the office addition. The proposed location is appropriate given the orientation of the site and is not anticipated to impact the streetscape, or neighbouring properties, in a significant way. As such, staff are of the opinion the variance is minor in nature.</p> <p><b><i>Section 8.1.3 - Maximum Side Yard Setback</i></b></p> <p>Yes, the variance is minor in nature. The variance to the maximum side yard setback is desirable as an appropriate buffer to adjacent properties will be maintained on the site in the interior side yard. In this instance, the side yard functions as a rear yard, and as such, the impact of the increased setback is minimal. The scale of the proposed addition will not affect the</p>

	<p>original intent of the building design, and the streetscape along Canboro Road will remain consistent. As such, staff are of the opinion the variance is minor in nature.</p> <p><b>Section 4.3.1 - Short-term Bicycle Parking</b>  <b>Section 4.3.1 - Long-term Bicycle Parking</b></p> <p>Yes, the variances are minor in nature. The intent of requiring short- and long-term bicycle spaces is to promote and facilitate cycling as a sustainable mode of transportation, and to support the creation of cyclist-friendly development patterns. Staff note there is an existing bicycle rack along the Canboro Road frontage of the site. As such, the variances are not anticipated to detract from the ability of the site to accommodate bicycle parking for customers.</p>
The variance is desirable for the development or use of the land.	<p><b>Section 8.1.3 - Minimum Rear Yard Setback</b></p> <p>The desirability test examines whether the variance is desirable from the standpoint of permitting appropriate development as a public interest. The variance will permit the natural extension of the existing repair garage. In the opinion of staff, the proposed location of the addition is appropriate given the context and constraints given the lot's irregular shape. The reduction to the rear yard is not anticipated to detract from the streetscape. Adequate access around the structure will be maintained for maintenance and drainage purposes. As such, it is the opinion of staff the variance is desirable for the development or use of the land.</p> <p><b>Section 8.1.3 - Maximum Side Yard Setback</b></p> <p>Yes, the variance is desirable for the development or use of the land. In this instance, the side yard effectively functions as a rear yard, and as such, the impact of the increased setback is minimal. The variance is desirable the addition is not anticipated to detract from the streetscape, nor pose adverse conditions for the drainage of the site. The variance will permit an appropriate addition to the existing business. As such, it is the opinion of staff the variance is desirable for the development or use of the land.</p> <p><b>Section 4.3.1 - Short-term Bicycle Parking</b>  <b>Section 4.3.1 - Long-term Bicycle Parking</b></p> <p>Yes, the variances are desirable for the development or use of the land. There is an existing bicycle rack along the Canboro Road frontage of the site. The variances are not anticipated to detract from the ability of the site to accommodate bicycle parking for customers.</p>
The variance maintains the general intent and purpose of the Zoning By-law.	<p><b>Section 8.1.3 - Minimum Rear Yard Setback</b></p> <p>The intent of the rear yard setback is to ensure there is adequate separation between neighbouring uses. Given the orientation the site, the rear lot line effectively functions as an interior side yard. As viewed from Canboro Road the lot line appears as an interior side yard. The existing structure maintains a shallow setback, contributing to the streetscape. The variance is not anticipated to detract from the streetscape. Adequate separation is maintained to provide access around the structure and buffer from the neighbouring property to the west. As such, staff are of the opinion the variance maintains the general intent and purpose of the Zoning By-law.</p>

	<p><b>Section 8.1.3 - Maximum Side Yard Setback</b></p> <p>The Village Commercial zone included a maximum side yard setback for a Village Commercial use. The intent of the maximum side yard setback is to encourage a consistent streetscape in the commercial areas, and to allow for adequate space and separation between neighboring structures. The lot line the interior side yard is measured from effectively functions as a rear lot line. The increased sideyard setback is not anticipated to detract from the streetscape. Adequate access around the structure will be maintained for maintenance and drainage purposes. As such, staff are of the opinion the variance maintains the general intent and purpose of the Zoning By-law.</p> <p><b>Section 4.3.1 - Short-term Bicycle Parking</b>  <b>Section 4.3.1 - Long-term Bicycle Parking</b></p> <p>Yes, the variances maintain the intent and purpose of the Zoning By-law. The requirement for short and long-term bicycle spaces ensures that buildings and developments have sufficient space for individuals to securely park their bicycles, both in the short-term and long-term, and encourages the integration of cycling infrastructure into the design of the built environment. There is an existing bicycle rack along the Canboro Road frontage of the site which will provide adequate bicycle parking space to service the existing commercial use.</p>
The variance maintains the general intent and purpose of the Official Plan.	<p><b>Section 8.1.3 - Minimum Rear Yard Setback</b>  <b>Section 8.1.3 - Maximum Side Yard Setback</b>  <b>Section 4.3.1 - Short-term Bicycle Parking</b>  <b>Section 4.3.1 - Long-term Bicycle Parking</b></p> <p>The subject lands are designated Downtown per the Town's Official Plan. The intent of the Downtown designation is to maintain and promote Downtown Fonthill and Downtown Fenwick as the focal points for commerce and hospitality in the Town and establish a definitive boundary for the Downtowns, within which a pedestrian-oriented environment can be fostered. The variances will facilitate an addition to an existing commercial development and does not conflict with any policies and the fulfillment of the proposed conditions of approval.</p>

### Agency and Public Comments:

On February 7th, 2024, 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
  - A Building Permit is required for proposed addition.
- Public Works Department
  - No comments.

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

### **Planning Staff Comments:**

The Owner has submitted a site plan control application (Town File: SP-06-2023) which was reviewed by planning staff. The application received conditional approval, subject to conditions, one of which being applying for and receiving approval for a minor variance application. One of the suggested conditions of approval of the variance is entering into a site plan agreement with the Town.

At the time of writing, Council approved the Deeming By-law on February 22, 2024. The By-law is to be registered to ensure the two parcels are merged on title.

Based on the analysis given in above sections, staff is of the opinion the variances are minor in nature, conform to the general policies and intent of both the Official Plan and Zoning By-law, and are appropriate for the development and use of the land.

### **Planning Staff Recommendation:**

Planning staff recommend that minor variance file A2/2024P **be approved** subject to the following condition(s):

**THAT** the applicant:

- Enter into a site plan agreement with the Town to the satisfaction of the Director of Community Planning and Development.
- Obtain all necessary building permits be acquired prior to construction commencing, to the satisfaction of the Chief Building Official.

### **Prepared and Submitted by:**

Andrew Edwards, BES  
Planner

### **Recommended by:**

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