

## Committee of Adjustment AGENDA

03-2024

March 4, 2024

4:00 pm

Town of Pelham Municipal Office - Council Chambers

20 Pelham Town Square, Fonthill

The Town of Pelham is holding hybrid meetings of Council and Committee in accordance with Procedure By-law 4507(2022). Public access to meetings will be provided in-person at the location indicated on the agenda, via Livestream: [www.youtube.com/townofpelham/live](http://www.youtube.com/townofpelham/live) and subsequent publication to the Town's website at [www.pelham.ca](http://www.pelham.ca).

Pages

1. **Attendance**
2. **Call to Order, Declaration of Quorum and Introduction of Committee and Staff**
3. **Land Recognition Statement**

We begin this meeting by acknowledging the land on which we gather is the traditional territory of the Haudenosaunee and Anishinaabe peoples, many of whom continue to live and work here today. This territory is covered by the Upper Canada Treaties and is within the land protected by the Dish With One Spoon Wampum agreement. Today this gathering place is home to many First Nations, Metis, and Inuit peoples and acknowledging reminds us that our great standard of living is directly related to the resources and friendship of Indigenous people.

4. **Approval of Agenda**
5. **Disclosure of Pecuniary Interest and General Nature Thereof**
6. **Requests for Withdrawal or Adjournment**
7. **Applications for Minor Variance**

<b>7.1</b>	<b>A2-2024P - 801 Canboro Road and 1126 Maple Street</b>	<b>1</b>
	1. Town of Pelham Planning	
	2. Town of Pelham Public Works	
	3. Town of Pelham Building	
<b>7.2</b>	<b>A3-2024P 27 Milburn Drive</b>	<b>12</b>
	1. Town of Pelham Planning	
	2. Town of Pelham Public Works	
	3. Town of Pelham Building	
<b>8.</b>	<b>Applications for Consent</b>	
<b>9.</b>	<b>Minutes for Approval</b>	<b>23</b>
	February 5, 2024	
<b>10.</b>	<b>Adjournment</b>	



**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

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**Engineering Department  
Committee of Adjustment Report**

**For**

**A2-2024P  
801 Canboro Road & 1126 Maple Street, Pelham**

**February 21<sup>st</sup>, 2024**

Town staff have reviewed the following documentation for the purpose of **A2-2024P-** Minor Variance application for:

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 initiated the process 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.

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**Introduction:**

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 has requested a Deeming By-law to Council to merge 801 Canboro Road with 1126 Maple Street.

This full report contains following comments in conjunction with Minor Variance application A2-2024P – 801 Canboro Road & 1126 Maple Street and shall be addressed to the satisfaction of the Director of Public Works. Note that further comments to be forthcoming on subsequent submissions.

**Analysis:**

Please see comment and condition

**Public Works offer the following comments or conditions:**

Public Works has no comments

To: Sarah Leach

Cc: Andrew Edwards

From: Alex Foisey, Building Intake/Zoning Technician

Date: February 20th, 2024

Subject: Building Comments on Applications to the Committee of Adjustment for  
801 Canboro Road

**File Number:** A2-2024P

Comments:

- Building Permit is required for proposed addition.

Respectfully,  
Alex Foisey



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

Monday, March 04, 2024

**Minor Variance Application: A3-2024P**

**Municipal Address: 27 Milburn Drive**

**Legal Description: PL59 M128 PT BLK 18 RP, 59R6755 PART 4**

**Roll number: 2732 030 012 36100**

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

The subject land is located on the north side of Welland Road, lying between Woodside Square and Milburn Drive, being PCL 18-5 SEC 59M-128, PT BLK 18, Plan 59M-128 being Part 4 on 59R-6755 in the Town of Pelham.

The subject land is zoned Residential Multiple 1 (RM1) in accordance with Pelham Zoning By-law 1136(1987), as amended. Application is made to construct an accessory building (pool shed)/pool area and seeks relief from:

- **Section 3.1(c) Accessory Uses, Buildings and Structures** – requesting an accessory building be permitted a front yard setback of 2.18 metres, whereas accessory structures are not permitted in the front yard.
- **Section 3.33(b) Swimming Pools** – requesting a setback of 2.53 metres to a front lot line for pool circulating equipment in an enclosed building, whereas circulating equipment is not permitted closer to any street than the required yard for the main building or structure.

The subject lands are triangular in shape and are approximately 1,014.78 square metres in area. The lands have approximately 64 metres of frontage along Welland Road. The frontage of the lands is the longest lot line. The two additional lot lines are considered interior lot lines. The two corners of the site are at the intersections of Milburn/Welland and Woodside/Welland.

Although the subject lands have a Milburn Drive address, access to the site is provided from a driveway off of Welland Road. The lands currently contain a one-storey street townhouse dwelling and amenity area/deck in the side yard.

The applicant is proposing to construct a pool area and 58 square metre accessory structure (pool shed/outdoor living area) on the property within the defined front yard. The structure is proposed to be used for the purpose of a sheltered amenity area, a changing room, and a mechanical room for the pool circulating equipment. The structure is proposed to be in the southeast corner of the site.

## **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 located 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.

Planning staff are of the opinion the requested zoning relief is consistent with the PPS.

### 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. Section 2.2.1 of the Growth Plan directs growth to settlement areas that have a delineated built boundary, have existing municipal services, and can support the achievement of complete communities. The Growth Plan states municipalities will support the achievement of complete communities by planning to accommodate forecasted growth, planning to achievement the minimum intensification and density targets of the Plan, considering the range and mix of housing options and densities of existing housing stock, and planning diversify overall housing stock.

Planning staff are of the opinion the proposed minor 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 2.3.1.4 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:

- a) facilitating compact built form; and
- b) 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 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 local Official Plan designates the subject land as 'Urban Living Area / Built Boundary.' Section B1.1.2 outlines the permitted uses and intentions of this designation, which are supportive of the development of lower density residential and accessory uses as part of a complete community.

Section A2.3 provides objectives for the urban character of existing Urban Areas. Objectives include, but are not limited to:

- To respect the character of existing development and ensure that all applications for development are physically compatible with the character of the surrounding neighbourhood.
- To maintain and enhance the character and stability of existing and well-established residential neighbourhoods by ensuring that development and redevelopment is compatible with the scale and density of existing development.

Policy E1.5 states that in addition to the Planning Act's four tests considered in determining whether to grant a minor variance, applicants 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 indicated that due to the irregular



triangular shape of the lot, siting the accessory structure in an alternative location is challenging.

Staff are of the opinion the proposed variances conform with the Town's Official Plan.

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

The subject lands are zoned Residential Multiple 1 (RM1) per Town of Pelham Zoning By-law 4481. A street townhouse dwelling, and accessory uses are a permitted use in the RM1 zone. Under the regulations of the Zoning By-law, the minor variance application requests relief from:

- **Section 3.1(c) Accessory Uses, Buildings and Structures** – requesting an accessory building be permitted a front yard setback of 2.18 metres, whereas accessory structures are not permitted in the front yard; and,
- **Section 3.33(b) Swimming Pools** – requesting a setback of 2.53 metres to a front lot line for pool circulating equipment in an enclosed building, whereas circulating equipment is not permitted closer to any street than the required yard for the main building or structure.

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><b>Section 3.1(c) Accessory Uses, Buildings and Structures</b></p> <p>Yes, the variance is minor in nature. The closest portion of the structure to the front lot line is setback 2.18 metres (the northern portion of the structure). Staff note this portion of the structure is the covered outdoor living space. The proposed accessory structure maintains the intention of the regulations for accessory buildings in the Town's Zoning By-law. Given the irregular shape of the lot, although defined as a front yard, the area where the accessory structure is proposing effectively functions as a rear/side yard. Restricting the ability of the structure to be located in the front yard poses challenges for the placement of the pool area/accessory structure. Permitting the structure within the front yard is not anticipated to impact the streetscape in a significant way. The design/placement of the structure utilizes existing amenity area while maintaining a compatible built form with the surrounding neighbourhood. As such, staff are of the opinion the variance is minor in nature.</p> <p><b>Section 3.33(b) Swimming Pools</b></p> <p>Restricting the ability of the structure/circulating equipment to be located in the front yard poses challenges for the placement of the pool area/accessory structure. Permitting the structure within the front yard is not anticipated to impact the streetscape in a significant way. As such, staff are of the opinion the variance is minor in nature.</p>

<p>The variance is desirable for the development or use of the land.</p>	<p><b>Section 3.1(c) Accessory Uses, Buildings and Structures</b></p> <p>The desirability test examines whether the variance is desirable from the standpoint of permitting appropriate development as a public interest. The proposed location for the accessory building is suitable based on the existing site conditions on the property. The accessory building is an accessory residential use. The proposed location is currently utilized as amenity space for the owners. In the opinion of staff the accessory structure is a compatible use with the surrounding residential neighbourhood. An accessory residential use is an appropriate development for the site. In the opinion of staff, the proposed location of the accessory structure is appropriate given the context and irregular triangular shape of the lot. As such, staff are of the opinion the variance is desirable for the development or use of the land.</p> <p><b>Section 3.33(b) Swimming Pools</b></p> <p>The pool equipment will be enclosed in the accessory structure and will maintain a generous setback to the neighbouring property to the east. Given the irregular shape of the property, locating the accessory structure and circulating equipment in the front yard is desirable as it will maintain adequate outdoor amenity area for the property owners. Locating the circulating equipment in the accessory structure will provide a visual and noise attenuating buffer for the machinery. As such, 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><b>Section 3.1(c) Accessory Uses, Buildings and Structures</b></p> <p>Under the regulations of the Zoning By-law, accessory structures are not permitted in the front yard. The intent of prohibiting accessory buildings within the front yard is to maintain the character of the streetscape and to ensure accessory buildings have minimal impacts on neighbouring properties.</p> <p>The existing front yard, as defined by the Town's Zoning By-law, functions as a rear/side yard given the irregular shape of the lot. The placement of the accessory building is not anticipated to alter the character of the streetscape, or the existing dwelling. A fence is required to enclose the amenity area. Upon construction, as viewed from Welland Road, the fenced yard will appear as an exterior side yard similar to the existing conditions of the dwelling directly across the street from the proposed development. Staff note a fence variance is required, and thus will be included as a condition of approval. Similarly, construction of the pool will require a pool permit through the Town's By-law Department. Obtaining the permit will be included as a condition of approval for the variance.</p> <p>Further, the Town's Municipal Engineering Design Manual requires a daylighting triangle (Local to Collector) of 5.0m by 5.0m. The structure is located outside of the required daylighting triangle.</p> <p>As such, staff are of the opinion the proposed variance maintains the general intent and purpose of the Zoning By-law.</p> <p><b>Section 3.33(b) Swimming Pools</b></p> <p>The Town's Zoning By-law requires that water circulating or treatment equipment, such as pumps or filters shall not be located any closer than 1.2m to any side lot line or rear lot line if enclosed in an accessory building or structure, or closer to any street than the required yard for the main</p>

	<p>building or structure. The intent of the setback is to mitigate potential impacts on neighbouring properties in terms of visual and noise impacts. The portion of the building where the circulating equipment is proposed is setback 2.53 metres from the front lot line. The circulating equipment is proposed to be enclosed in the structure thereby reducing visual and noise impacts on neighbouring properties.</p> <p>The Zoning By-law requires circulating equipment in an enclosed building be setback a minimum of 1.2 metres from rear and interior side yards. However, the Zoning By-law stipulates that the equipment shall not be closer to the required yard for the main building or structure, thus triggering the need for the variance as the enclosed room is within the required front yard. The analysis provided above of the variance required to Section 3.1(c) remains applicable to the variance required to Section 3.33(b). On the basis of the above, staff are of the opinion the proposed variance maintains the general intent and purpose of the Zoning By-law.</p>
The variance maintains the general intent and purpose of the Official Plan.	<p><b><i>Section 3.1(c) Accessory Uses, Buildings and Structures</i></b> <b><i>Section 3.33(b) Swimming Pools</i></b></p> <p>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. The designation permits a wide variety of residential and accessory uses.</p> <p>The variances will facilitate an appropriate accessory use for the site. the variance does not conflict with any policies of the Official Plan. The fulfilment of the proposed conditions of approval will ensure there is no impact to neighbouring properties.</p> <p>As such, staff are of the opinion the proposed variances maintain the general intent and purpose of the Official Plan.</p>

### Agency and Public Comments:

On February 9th, 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 accessory structure.
- Public Works Department
  - The applicant must submit a comprehensive Lot Grading & Drainage Plan demonstrating that the drainage neither relies, nor negatively impacts neighboring properties, and that all drainage will be contained within the respective lot, to the satisfaction of the Director of Public Works, or designate.

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

### **Planning Staff Comments:**

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 A3/2023P **be approved** subject to the following condition(s):

**THAT** the applicant:

- Obtain all necessary building permits be acquired prior to construction commencing, to the satisfaction of the Chief Building Official.
- The applicant must submit a comprehensive Lot Grading & Drainage Plan demonstrating that the drainage neither relies, nor negatively impacts neighboring properties, and that all drainage will be contained within the respective lot, to the satisfaction of the Director of Public Works, or designate.
- Obtain approval for a fence variance, to the satisfaction of the Director of Community Planning and Development.

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

Andrew Edwards, BES  
Planner

### **Recommended by:**

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

**Engineering Department  
Committee of Adjustment Report****For****A3-2024P  
27 Milburn Drive****February 21<sup>st</sup>, 2024**

Town staff have reviewed the following documentation for the purpose of  
**A3-2024P-** Minor Variance application for:

The subject land is zoned Residential Multiple 1 (RM1) in accordance with Pelham Zoning By-law 4481(2022), as amended. Application for relief is made, to facilitate the construction of an accessory building/pool area. The applicant seeks relief from the following section(s) of the Zoning By-law:

**Section 3.1(c) "Accessory Uses, Buildings and Structures"** – requesting an accessory building be permitted a front yard setback of 2.18m, whereas accessory structures are not to be located in any front yard; and

**Section 3.33(b) "Swimming Pools"** – to permit a setback of 2.53m to a front lot line for pool circulating equipment in an enclosed building, whereas circulating equipment is not permitted closer to any street than the required yard for the main building or structure.

This full report contains following comments in conjunction with Minor Variance application A3-2024P – 27 Milburn Drive

**Introduction:**

The subject land is located on the north side of Welland Road, lying between Woodside Square and Milburn Drive, being PCL 18-5 SEC 59M-128, PT BLK 18, Plan 59M-128 being Part 4 on 59R-6755 in the Town of Pelham.

The application for relief is made to facilitate the construction of an accessory building/pool area.

This full report contains following comments in conjunction with Minor Variance application A3-2024P – 27 Milburn Drive and shall be addressed to the satisfaction of the Director of Public Works. Note that further comments to be forthcoming on subsequent submissions.

**Analysis:**

Please see condition below.

**Public Works offer the following condition:**

- The applicant must submit a comprehensive Lot Grading & Drainage Plan demonstrating that the drainage neither relies, nor negatively impacts neighboring properties, and that all drainage will be contained within the respective lot, to the satisfaction of the Director of Public Works, or designate.

To: Sarah Leach

Cc: Andrew Edwards

From: Alex Foisey, Building Intake/Zoning Technician

Date: February 20th, 2024

Subject: Building Comments on Applications to the Committee of Adjustment for  
27 Milburn Drive

**File Number:** A3-2024P

Comments:

- Building Permit is required for proposed accessory structure.

Respectfully,  
Alex Foisey



**Committee of Adjustment****Minutes**

**Meeting #:** 02-2024  
**Date:** Monday, February 5, 2024  
**Time:** 4:00 pm  
**Location:** Town of Pelham Municipal Office - Council Chambers  
20 Pelham Town Square, Fonthill

Members Present      Colin McCann  
Don Rodbard  
John Cappa

Members Absent      Brenda Stan  
Isaiah Banach

Staff Present      Sarah Leach  
Andrew Edwards  
Jodi Legros  
Barbara Wiens  
Gimuel Ledesma

**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, Ms. Sarah Leach, Secretary-Treasurer, called the meeting to order at approximately 4:00 pm. The Secretary-Treasurer 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. Leach recited the land recognition statement.

**4. Approval of Agenda**

**Moved By** Colin McCann  
**Seconded By** Don Rodbard

**THAT the agenda for the February 5, 2024 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 stated no requests for withdrawal or adjournment have been made.

**7. Applications for Minor Variance**

**7.1 A1-2024P - 1334 Pelham Street**

**Purpose of the Application**

Application 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 6.1.3 "Maximum Front Yard" – to permit a maximum front yard setback of 50.2m whereas the By-law permits a maximum front yard of 6.0m.

**Representation**

The Applicant, Laura Schilstra was viewing via Livestream.

**Correspondence Received**

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Karen Saylor
5. Anthony Eaton

**Applicants Comments**

None.

## **Public Comments**

Ms. Leach, Secretary-Treasurer indicated there were no pre-registered members of the public or individuals present in the gallery. She checked the [clerks@pelham.ca](mailto:clerks@pelham.ca) email address at 4:16 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**

A Member expressed that without the variance, the Applicant would be unable to build the structure. The Member identified the strategic placement of windows to ensure no privacy encroachment. The Member stated the requirement for the installation of property fencing is reasonable.

**Moved By** Colin McCann

**Seconded By** Don Rodbard

**THAT the public portion of the meeting be closed.**

**Carried**

**Moved By** John Cappa

**Seconded By** Don Rodbard

**THAT Application A1-2024P for relief to facilitate the construction of a single-detached dwelling, seeking relief from the following section(s) of the Zoning By-law: Section 6.1.3 “Maximum Front Yard” – to permit a maximum front yard setback of 50.2m whereas the By-law permits a maximum front yard of 6.0m, is hereby, GRANTED:**

**The above decision is based on the following reasons:**

- 1. The variance is minor in nature as the rear of the site has ample space for the proposed dwelling and detached garage, while other yard setbacks remain unchanged. The dwelling is designed to minimize impact on adjacent development with limited windows on the eastern face and a screened 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 it aligns with appropriate development standards and makes efficient use of underutilized urban land with full municipal services.**
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 modification of a driveway entrance will require an entrance permit for Public Works, at the expense of the Applicant.**

**The above decision is subject to the following conditions:**

1. **To the Satisfaction of the Director of Community Planning and Development**
  1. **Construct a board-on-board privacy fence along Lot Lines #5 and #6 where the existing fence was damaged and removed to the satisfaction of the Director of Community Planning and Development.**
2. **To the Satisfaction of the Director of Public Works**
  1. **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.**

## **8. Minutes for Approval**

**Moved By** Colin McCann

**Seconded By** John Cappa

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

**Carried**

**9. Adjournment**

The hearing was adjourned at 4:21 pm.

**Moved By** Colin McCann

**Seconded By** Don Rodbard

**BE IT RESOLVED THAT this Meeting of the Committee of Adjustment be adjourned until the next regular meeting scheduled for March 4, 2024, at 4:00 p.m.**

**Carried**

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John Cappa, Chair

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Sarah Leach, Secretary-Treasurer