



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

Tuesday, April 02, 2024

**Minor Variance Application: A5-2024P**

**Municipal Address: 35 Philmori Boulevard**

**Legal Description: PLAN 59M403 LOT 52**

**Roll number: 2732 020 010 03452**

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

The subject land is corner lot on Philmori Boulevard, lying east of Joyce Crescent, being Lot 52 on Plan 59M-403 in the Town of Pelham.

The subject land is zoned Residential One (R1) in accordance with Pelham Zoning By-law 4481(2022), as amended. Application for relief is made, to facilitate the construction of shed. The applicant seeks relief from the following section(s) of the Zoning By-law:

- a. **Section 3.1(c) "Accessory Uses, Buildings, and Structures"** – to permit an exterior side yard setback of 1.2m whereas the By-law requires an exterior side yard setback of 3.0m.

The applicant is proposing to construct a 7.44 square metre (80 ft<sup>2</sup>) accessory structure in the rear yard to house the circulating equipment for a proposed pool. The accessory structure is in the southeast corner of the site. The subject lands are located along a curve of Philmori Boulevard. As such, the eastern property line is considered an exterior side yard as it has frontage along the street. The site has approximately 22 metres of frontage on Philmori Boulevard and is approximately 833.25 square metres in lot area.

**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 North West Fonthill Secondary Plan Area – Low Density Residential. The purpose of the North West Fonthill Secondary Plan is to protect natural heritage features and to establish a comfortable and attractive neighbourhood with a range of housing types. It is the intent of the Town to permit single-detached dwelling units in an environmentally sound manner, including the protection of the interpretive, educational and scientific value of the surrounding landscape.

Policy E1.5 states that in addition to the *Planning Act* 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 submitted a cover letter with the application. The applicant has indicated the intention of siting the shed within the exterior side yard setback is to enhance the functionality of the property, and to maximum the amenity space within the backyard.

Staff are of the opinion the variance conforms with the Town of Pelham's Official Plan.

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

The subject lands are zoned Residential 1 (R1) per Town of Pelham Comprehensive Zoning By-law 4481. A single detached dwelling, and accessory uses are permitted uses in the R1 zone. Under the regulations of the Zoning By-law, the minor variance application requests relief from:

- a. **Section 3.1(c) "Accessory Uses, Buildings, and Structures"** – to permit an exterior side yard setback of 1.2m whereas the By-law requires an exterior side yard setback of 3.0m.

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:

<b>Minor Variance Test</b>	<b>Test Response/Explanation</b>
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. In the opinion of staff, the variance is minor in nature as the reduction to the setback is not anticipated to result in a negative impact on the adjacent uses or substantially remove any of the amenity space of the lot. Locating the accessory structure closer to the exterior lot line will enhance the functionality of the amenity space, as an easement is located along the southern property line of the lot.</p> <p>As such, staff are of the opinion the variance is minor in nature.</p>
The variance is desirable for the development or use of the land.	<p><b>Section 3.1(c) Accessory Uses, Buildings, and Structures</b></p> <p>Yes, the variance is desirable for the development or use of the land.</p> <p>The requested variances would not have a negative impact on the character of the surrounding area. The variances would allow for appropriate development of a pool and accessory structures associated with the pool on an existing lot. The construction of the accessory structure is not anticipated to have a significant visual impact on the streetscape and will be screened by an existing fence and cedar hedge. The construction would be in character of the area which includes residential uses and uses accessory thereto.</p> <p>As such, staff are of the opinion the variance is desirable for the development or use of the land.</p>
The variance maintains the general intent and purpose of the Zoning By-law.	<p><b>Section 3.1(c) Accessory Uses, Buildings, and Structures</b></p> <p>Yes, the variance maintains the general intent and purpose of the Zoning By-law. The intent of the exterior side yard setback is to maintain distance from the street to increase visibility for drivers, avoid over-development of lots, and allow for enhanced landscaping along corner lots.</p> <p>The proposal maintains adequate visibility at the curve of Philmori Boulevard, allows for adequate landscaping, and does not result in the overdevelopment of the site. the reduction in exterior side yard is proposed to the rear of the lot, setback adequately from the front lot line. A large daylighting triangle exists on the property providing ample visibility at the corner of the street.</p> <p>As such, staff are of the opinion the 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>Section 3.1(c) Accessory Uses, Buildings, and Structures</b></p> <p>Yes, the variance maintains the general intent and purpose of the Official Plan.</p> <p>Staff are of the opinion that the requested variance is not considered to have significant impacts within the context of the Official Plan policies. The</p>

	<p>Official Plan states that development and redevelopment shall maintain and enhance the character and stability of existing and well-established residential neighbourhoods with regards to scale and density.</p> <p>The requested variances would not have a negative impact on the character of the surrounding area. The variance would allow for appropriate development of an accessory structure on an existing lot.</p> <p>As such, staff are of the opinion the variance maintains the general intent and purpose of the Official Plan.</p>
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**Agency and Public Comments:**

On February 23, 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 not required for the proposed Accessory Structures.
- Public Works Department
  - Applicant must acknowledge that the trees located within the rear yard easement will not impact the function of the rear yard swales. Any future maintenance work required by the Town to maintain the easement could result in the removal of the trees and they will not be replaced.
  - Applicant must acknowledge that there are no structures to be constructed in the easement along the rear lot line.
  - 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 proposal:

- makes efficient use of the land;
- will not result in overbuilding of the property;
- will not alter the view, sightlines or personal enjoyment of the subject property or any neighbouring properties; and,
- should not negatively impact the surrounding neighbourhood with regards to land use incompatibility, traffic, privacy and storm water runoff.

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 A5/2024P **be approved** subject to the following condition(s):

**THAT** the applicant:

- Obtain a pool permit from the Town's By-law Department to the satisfaction of the Director of Community Planning and Development.
- 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.
- That the Applicant submit a written acknowledgment that the trees located within the rear yard easement will not impact the function of the rear yard swales and that there are no structures to be constructed in the easement along the rear lot line. Any future maintenance work required by the Town to maintain the easement could result in the removal of the trees and they will not be replaced.

**Prepared and Submitted by:**

Andrew Edwards, BES  
Planner

**Recommended by:**

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