



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

Tuesday, April 02, 2024

Consent Application: B7-2024P

Municipal Address: 61 Port Robinson Road
Legal Description: PLAN 25 PT LOT 17 NP717
Roll number: 2732 030 004 06000

Location of Lands and Purpose of Application:

The subject parcel, shown as Parts 1 and 2 on the attached sketch, has a combined frontage of 33.49 metres on the north side of Port Robinson, lying east of Station Street, legally described above, in the Town of Pelham.

Application is made for consent to partial discharge of mortgage and consent to convey 634.4 square metres of land (Part 1), for future construction of a semi-detached dwelling. Part 2 is to be retained for the continued use of the single detached dwelling. Municipal water and sanitary servicing connections exist along Port Robinson.

Staff note a Zoning By-law Amendment (ZBA) application was approved by Council in February 2024. The ZBA rezoned the overall land holdings from the Residential Development (RD) zone to the site-specific Residential 2-157 (R2-157) zone.

The application for Zoning By-law Amendment was received for the property known as 61 Port Robinson Road and described legally as PLAN 25 PT LOT 17 NP717. The lands have 33.49 metres of frontage along Port Robinson Road and are 1,279.2 square metres in area. The lands currently host a single detached dwelling and detached garage.

Surrounding land uses are primarily residential, consisting of a mix of single detached dwellings, townhouse, and a small-scale apartment to the west. It is noted to the north and south of the lands are draft plan approved subdivision developments (Summersides Village, Forest Park) within the East Fonthill Secondary Plan Area.

The proposed semi-detached dwelling is two storeys in height and is proposed to have a twinned garage and driveway configuration. The existing one and half storey single detached dwelling on the eastern portion of the site is to remain. However, the existing detached garage is to be removed to accommodate the proposed semi-detached dwelling. The original location of the driveway that services the existing dwelling was proposed to be moved to the east in front of the existing dwelling.

Applicable Planning Policies:

Planning Act

Applications for consent shall have regard to provincial interests and the *Planning Act* land division criteria, contained under Section 51(24) of the *Planning Act*:

- a) The development's effect on provincial matters of interest;
 - See PPS and Growth Plan analysis in sections below.
- b) Whether the proposed subdivision is premature or in the public interest;
 - The application is not considered premature and is able to uphold public interest as it is within the Urban Area Boundary and is seen as an appropriate form of intensification.
- c) Whether the plan conforms to the Official Plan and adjacent plans of subdivisions, if any;
 - See Official Plan discussion below.
- d) The suitability of the land for such purposes;
 - The lands and surrounding neighbourhood are predominately low to medium density residential dwellings. The proposed consent would facilitate the construction of an additional semi-detached dwelling on the lands to be severed and is suitable for such use.
- f) The dimensions and shapes of the proposed lots;
 - The proposed lot will have a regular rectangular shape and adequate dimensions to site a future residential development.
- h) Conservation of natural resources and flood control;
 - No natural resources or flood concerns have been identified. A lot grading and drainage plan will be recommended as a condition of approval.
- i) The adequacy of utilities and municipal services;
 - The retained parcel is connected to municipal infrastructure and has access to the full range of public services. Utilities and municipal services are available to service the severed parcel and it will be required to connect to municipal services.
- j) The adequacy of school sites;
 - Available nearby. School Boards did not comment on application.

Planning staff are of the opinion the applicant for consent has regard for the *Planning Act*.

Provincial Policy Statement (PPS) (2020)

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development and sets the policy foundation for regulating the development and use of land. The PPS provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment.

Section 3 of the *Planning Act* requires that decisions affecting planning matters “shall be consistent with” policy statements issued under the Act. The PPS recognizes the diversity of Ontario, and that local context is important. Policies are outcome-oriented, and some policies provide flexibility provided that provincial interests are upheld. PPS policies represent minimum standards.

The subject 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 their vitality and regeneration shall be promoted.

Policy 1.1.3.2 states that land use patterns within settlement areas shall be based on a range of densities and mix of land uses that efficiently use land and resources, are appropriate for and efficiently use infrastructure and public service facilities, minimize negative impacts to air quality and climate change and promote energy efficiency, prepare for the impacts of a changing climate, support active transportation and are transit and freight supportive.

Policy 1.1.3.3 provides for the promotion of intensification and redevelopment accommodating a significant supply and range of housing options where it can be accommodated considering the building stock, availability of existing and planned infrastructure and public service facilities required to accommodate the needs of the development.

Infill development is an acceptable form of intensification so long as new development is compatible in nature, is compact, and avoids adverse impacts to provincial interest, public health, safety, and the quality of the human environment. Planning staff are of the opinion the proposed consent is consistent with the PPS and promotes appropriate development standards that help facilitate compact form and intensification.

Staff are of the opinion the application for consent 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 Growth Plan contains various guiding principles which are intended to guide decisions of how land is developed. The guiding principles include building compact, vibrant, and complete communities, managing and encouraging development in appropriate locations, and optimizing the use of existing infrastructure.

Policy 2.2.2.1(a) requires a minimum of 50 percent of all new residential development to occur within the delineated built-up area.

Policy 2.2.2.3(b) encourages intensification generally throughout the built-up area and investment in services that will support intensification.

The additional residential lot will help the Town to meet or exceed its delineated built boundary intensification targets. The proposed lot will help contribute towards the municipal property tax base which helps financially support the maintenance of linear infrastructure and public service facilities. The existing water and sanitary sewer mains already extend along the frontage of the subject lands but would be better utilized with additional building connections.

Planning staff are of the opinion the proposed application for consent conforms with the Growth Plan.

Niagara Region Official Plan (2022)

The Region of Niagara adopted a new Official Plan on June 23, 2022. Approval was granted by the Province on November 7, 2022. The new Region of Niagara Official Plan provides the policy guidance for future development across the Region. The lands are designated as Built-Up Area in the Niagara Region Official Plan.

Policy 2.2.2.5 requires that across the Region 60% of all residential units occurring annually are to be in the Built-Up Areas of the Region and in Pelham, this translates into an annual intensification rate of at least 25% of new residential units. The objective of intensification is to increase housing choice and housing affordability across the Region to meet future housing needs while at the same time making efficient use of infrastructure, community services and urban lands.

Policy 2.3.1 provides the direction with regards to a mix a housing options and specifically Policy 2.3.1.1 states that the development of a range and mix of densities, lot, and unit sizes, and housing types, including affordable and attainable housing, will be planned throughout settlement areas to meet housing needs at all stages of life.

Policy 2.3.1.4 also 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.

Staff are of the opinion that the proposed consent 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 our natural heritage features.

The property is located within the East Fonthill Secondary Plan area. The subject lands are designated East Fonthill - Medium Density Residential, according to Schedule 'A5' of the Official Plan.

Permitted uses in the EF - Medium Density Residential designation are all forms of townhouse units; small scale apartment buildings; accessory apartments/secondary suites; live-work units; housing for seniors and/or special needs housing; accessory buildings and structures related to the primary residential dwelling unit; home occupations; places of worship; day nurseries; convenience retail and service commercial uses; parks, parkettes, and open space linkages; and public uses and public and private utilities. Single and semi-detached dwellings may also be permitted provided they are limited in number, i.e., less than 15% in a plan of subdivision.

Section B1.7 provides the policy base for the East Fonthill Secondary Plan area. Plan objectives are contained in Section B1.7.3.1. Objectives include, but are not limited to:

- To ensure that the community is developed with a compact urban form and at an appropriate scale that is pedestrian-oriented and fosters community interaction
- To create a complete community with a safe, healthy and functional environment that can accommodate between 6,500 and 7,500 new residents and jobs combined;
- To ensure that all new development occurs on the basis of full urban water and sanitary sewer facilities, as well as adequate utility networks;

The lands form part of Neighbourhood 1 on Schedule A4 'Structure Plan'. According to Policy B1.7.7.2 (b)(i), Neighbourhood 1 shall achieve an overall minimum gross density of approximately 57 persons and jobs per gross hectare combined.

Sub policy B1.7.7.4.2(c), permits singles and semi-detached dwellings to be developed at densities between 20-50 units per net hectare.

Policy A2.2.2 Growth & Settlement – states that it is a goal of this Plan to encourage intensification and redevelopment within the *Urban Area* specifically in proximity to the Downtown.

Section A2.3.2 Urban Character sets out the objectives for the urban character of the Town. Objectives include to respect the character of existing development and ensure that all applications for development are physically compatible with the character of the surrounding neighbourhood, and 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. The proposal is supported by the Town Official Plan policies that encourage infill within existing built-up areas. It is noted compatibility does not necessarily mean the same as, rather the ability to coexist together.

The character of the neighbourhood is a mix of housing and densities including single and semi-detached housing styles from traditional to modern and constructed over a variety of eras of development. The neighbourhood has been experiencing some recent intensification with the approval of various draft approved plans of subdivisions, and new builds in the surrounding area. The proposed lot creation would provide for residential development that reflects of the density and contributes to the character of the area.

Policy A2.5.2 Infrastructure – stated objectives of this Plan include maintaining existing infrastructure in a manner that is cost effective and contributes to the quality of life of citizens. The proposed lot will utilize the existing infrastructure along Church Street.

Policy B1.1.3 states that in considering residential intensification proposals, the following criteria are applicable:

- a) Schedules A1 and A2 to this Plan identify a number of areas that may be good candidates for residential intensification. This does not preclude consideration for other sites in the Urban Living Area designation provided these sites abut arterial or collector roads or are located on a local road on a site that is no further than 100 metres from an intersection with an arterial or collector road;
 - ✓ N/A. The lands are not located on a local road. Port Robinson Road is identified as a Collector Road, per Schedule C of the Town's Official Plan.
- b) Intensification and redevelopment proposals are encouraged to achieve a unit density and housing type that is in keeping with the character of the density of the neighbourhood where it is proposed. Within the identified intensification areas identified on Schedules A1 and A2 the implementing Zoning By-law may establish minimum and maximum densities of between 10 and 25 units per hectare;
 - ✓ The subject lands are not within an identified intensification area. However, they are located on a Collector Road which is an appropriate location for gentle intensification. It is noted density of the development is approximately 23.5 units per hectare (3 units / 0.128 hectares), which, in the opinion of staff meets the intent of policy B1.1.3.
- c) Residential intensification and redevelopment proposals located on lands which abut local roads shall maintain the unit density and unit type of the surrounding neighbourhood, but may through a Zoning By-law Amendment, increase the unit density by up to 25% of the existing gross density of lands located within 300 metres of the site, provided the resultant development will be characterized by quality design and landscaping, suitable building setbacks,

and further that parking areas and traffic movements will not negatively impact the surrounding neighbourhood from the perspectives of safety or neighbourhood character;

- ✓ N/A. The lands are not located on a local road. As noted, Port Robinson is a Collector Road.
- d) Notwithstanding items (b) and (c), the creation of new freehold or vacant condominium infill lots through the consent process, for ground-oriented detached dwellings, may be permitted provided the proposed lot and unit type is similar to and compatible with the established character of the street or neighbourhood where it is proposed. The Zoning By-law shall establish minimum lot area and frontages and minimum and/or maximum densities which are considered appropriate within the Urban Living Area designation;
- ✓ The consent will facilitate the severance of the existing lot for the purpose of one freehold lot with a proposed semi-detached dwelling. The built form is low density, similar to and generally compatible with existing development along Port Robinson Road and the surrounding area.
- e) The creation of accessory apartments and in-law suites within residential neighbourhoods is considered to be an appropriate form of residential intensification. The establishment of accessory apartments shall occur in accordance with Policy B1.1.4 and Council may reduce the application fee for such amendments under the Town's Tariff of Fees By-law;
- ✓ Second dwelling units are permitted in semi-detached dwellings and accessory buildings subject to meeting the zoning by-law requirements for such uses.
- f) The provision of affordable housing in intensification areas will be encouraged; and,
- ✓ The new lot will allow for a semi-detached dwelling to be constructed on the lands to be severed contributing to housing choice in the area. The Town has policies that permit second dwelling units in semi and single detached dwellings and accessory buildings that if employed would help foster housing affordability.
- g) The Town will consider innovations for responsive processing of applications and amendments in the future including tools such as Conditional Zoning Amendments implementing a Development Permit system and the streamlining of processing concurrent development applications.
- ✓ N/A

Policy D5.2.1 states that for any consent application, the Committee of Adjustment shall be satisfied that (among other things) the proposed lot:

- a) Fronts on and will be directly accessed by a public road that is maintained on a year-round basis;
 - ✓ Port Robinson is a public road that is maintained year-round.
- b) Will not cause a traffic hazard as a result of its location on a curve or a hill;
 - ✓ Not anticipated. Public Works did not raise any concerns with respect to traffic hazards. A driveway/entrance permit will be a condition of approval.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
 - ✓ The proposed lot meets the minimum lot frontage and lot area regulations of its respective zone.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
 - ✓ Services exist along Port Robinson Road and are available to service the development.
- e) Will not have a negative impact on the drainage patterns in the area;
 - ✓ Negative impacts are not anticipated. A lot grading and drainage plan will be required as a condition of consent to ensure drainage is handled on site.
- f) Will not affect the develop ability of the remainder of the lands, if they are designated for development by this Plan;
 - ✓ The proposal will not affect the developability of the remainder of the lands.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
 - ✓ No environmental features identified on site.
- h) Conforms with Regional lot creation policy as articulated in the Regional Policy Plan; and,
 - ✓ The proposal is compliant with the Regional Official Plan.
- i) Complies with the appropriate provincial Minimum Distance Separation Formulae, where applicable.
 - ✓ N/A

The Town's Cultural Heritage Master Plan identifies the subject lands as having composite potential for deeply buried archaeological resources. The applicant submitted an Archaeological Assessment with the ZBA application. The Town will require a copy of the Ministry of Citizenship and Multiculturalism clearance letter prior to any ground disturbance.

Town Planning staff are of the opinion the proposed severance conforms to the local Official Plan as it helps enable intensification within an existing neighbourhood and does not conflict with any policies subject to the satisfaction of the conditions of approval.

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

The subject lands are currently zoned Residential 2-157 (R2-157), per Town of Pelham By-law No. 09 (2024). A semi-detached and single detached dwelling are a permitted uses in this zone. The property was subject to a Zoning By-law Amendment application (AM-10-2023) to allow for the future residential development of the site. The amendment was approved by Council on February 21, 2024.

It is noted that both the severed and retained lots will comply with the zone provisions outlined in the approved zoning amendment.

Agency and Public Comments:

On March 4, 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
 - Building permit approval is required for the proposed semi-detached dwelling on Part 1.
 - A Demolition permit approval is required for the existing detached garage on Part 1 and the site restored prior to consent finalization.
- Public Works Department
 - The newly created lots are to be self draining. The swale on the east property line of the new lot must be on private property not on property line. The swale on East side of 61 Port Robinson Road must be on private property.
 - Who is the applicant proposing will be responsible for the underground infrastructure located on part 1 and part 2?
 - The sump pump must discharge to grade do not connect to proposed RYCB.
 - The Town does not allow water services to be located under driveways, the water service for the existing house will need to be relocated to accommodate the proposed driveway.
 - The proposed concave driveway will collect and direct all runoff to the sidewalk which may cause ice to build up in winter months.

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

Planning Staff Comments:

Planning staff have reviewed the Planning Justification Report submitted by Upper Canada Consultants, as well as reviewed all agency and public correspondence submitted to date and the policy context as it relates to this application.

Through the ZBA process, the relocation of the driveway servicing the existing dwelling was raised. The East Fonthill Urban Design Guidelines encourage parking

areas to be located to the rear or side of dwellings to encourage an inviting streetscape. An existing hydro pole is currently located where the entrance would be to provide access to a parking area on the east side of the dwelling. The applicant met on site with NPEI to discuss the feasibility. The applicant has advised the pole is able to be moved at a reasonable cost and thus the applicant revised the plan to address staff comments on the ZBA.

The proposal is supported by the Town Official Plan policies that encourage infill within existing built-up areas. This supports the long-term public interest by minimizing the impact of sprawl on agricultural lands while supporting re-investment in existing communities to maintain their stability and vibrancy, providing for an efficient use of infrastructure and land, and contributing to the development of compact communities that foster walkability and a sense of place. The proposal, if approved would permit the creation of an additional residential lot. Staff do not anticipate any issues in terms of land use compatibility with the surrounding residential uses. Adequate parking and private amenity areas are provided for both Parts 1 and 2 and Staff are of the opinion that the proposal represents a good example of gentle intensification within the existing neighbourhood.

Planning Staff is of the opinion that the proposal is aligned with current planning and development goals. The redevelopment of this property for a single detached dwelling is a form of gentle form of residential intensification within an existing neighbourhood which will have minimal impact on adjacent land uses. The proposed severance is permitted by the current Zoning By-law approval for the lands.

In Planning Staff's opinion, the application is consistent with the PPS and conforms to Provincial, Regional and Local plans. The resulting parcel will comply with applicable Zoning By-law regulations upon the granting of the concurrent minor variance applications and is not anticipated to negatively impact the surrounding neighbourhood with respect to traffic, privacy, and stormwater management.

Planning Staff Recommendation:

Planning staff recommend that minor variance file B7/2024P **be approved** subject to the following condition(s):

THAT the applicant:

- Provide the Secretary-Treasurer with a registerable 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.
- Provide the final certification free of \$436, payable to the Treasurer, Town of Pelham, submitted to the Secretary-Treasurer. All costs associated with fulfilling conditions of consent shall be borne by the applicant.
- Sign the Town of Pelham's standard "Memorandum of Understanding" explaining that development charges and cash-in-lieu of the dedication of land for park purposes are required prior to the issuance of a Building Permit.

- The Owner agrees no demolition, grading or other soil disturbances shall take place on the subject land prior to the issuance of a Ministry of Citizen and Multiculturalism letter confirming that all archaeological resource concerns have been mitigated and meet licensing and resource conservation requirements.
- Town of Pelham Public Works Staff require 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.
- Town of Pelham Public Works Staff require an updated grading plan and site servicing plan showing all proposed service connection locations.
- That the applicant confirm that no existing utilities currently cross the proposed new property line. Should any services cross this new property line, the applicant will be responsible for costs associated with their relocation and/or removal.
- A Construction of new or modification of existing driveways requires a Driveway Entrance Permit. This permit is obtained through the Public Works Department. All associated costs with this permit are the responsibility of the owner.
- Part 1 is to be individually serviced with its own sanitary and water connections. Installation of any services will require a Temporary Works Permit obtained through the Public Works Department. These works are to be completed prior to final consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete.
- That all necessary building permits be acquired prior to construction commencing, to the satisfaction of the Chief Building Official.
- A demolition permit approval is required for the existing detached garage on Part 1 and the site restored to the satisfaction of the Chief Building Official.

Prepared and Submitted by:

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Recommended by:

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