



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

Tuesday, April 02, 2024

**Minor Variance Application: A7-2024P**

**Municipal Address: 201 Canboro Road**

**Legal Description: Part Lot 4, Concession 8 as in R0685205 (Part 2 on Sketch)**

**Roll number: 2732 020 010 10500**

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

The subject parcel, shown as Part 2 on the attached sketch, has a frontage of 13.66m on the north side of Canboro Road, lying south of Highway 20 being Part Lot 4, Concession 8 in the Town of Pelham.

The subject land is zoned Residential 2 (R2) in accordance with Pelham Zoning By-law 4481 (2022), as amended. Application is made to construct a semi-detached dwelling, and seeks relief from:

1. **Section 6.2.3** – requesting a minimum rear yard setback of 4.5 metres whereas a minimum rear yard setback of 7.5 metres is required.

This application is being considered concurrently with Consent Files B4-2024P and B5-2024P, and minor variance application A6-2024P.

**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.

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 requested zoning relief is consistent with the PPS and promotes appropriate development standards that help facilitate compact form and *intensification*.

#### 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 uses as part of a complete community.

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. The proposal is seen as an appropriate form of intensification in the Urban Area.

Section B1.1 of the Official Plan provides the policy base of the Urban Living Area designation. Policy B1.1.1 recognizes the existing urban area of Fonthill and the role the Town will need to accommodate various forms of residential intensifications, where appropriate. 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.

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 provided a planning justification report along with the concurrently applications for consent.

Town Planning staff are of the opinion the proposed minor variance conforms to the local Official Plan as it helps enable appropriate redevelopment and *intensification* within an existing residential neighbourhood and does not conflict with any policies subject to the fulfillment of the proposed conditions of approval.

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

The subject lands are zoned Residential 2 (R2) per Town of Pelham Comprehensive Zoning By-law 4481. Single detached and semi-detached dwelling and accessory uses are permitted uses in the R2 zone. Under the regulations of the Zoning By-law, the minor variance application requests relief from:

- **Section 6.2.3 – Minimum Rear Yard** - requesting a minimum rear yard setback of 4.5 metres whereas a minimum rear yard setback of 7.5 metres 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
The variance is minor in nature.	<p><b>Section 6.2.3 – Minimum Rear Yard</b></p> <p>Yes, the variance is minor in nature.</p> <p>The impact of the reduction in the rear yard setback can be considered minor in this instance as functional private amenity area is still maintained on the site. Drainage concerns will be addressed through a lot grading and drainage plan that will ensure drainage is addressed on site and will not rely on neighbouring properties.</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 6.2.3 – Minimum Rear Yard</b></p> <p>Yes, the variance is desirable for the development or use of the land.</p> <p>The requested variance is not anticipated to have a significant negative impact on the streetscape or adjacent properties. Staff note the proposed semi-detached dwelling is opposed to be sited further back from the slope than the existing single detached dwelling. The reduction to the rear yard setback in this instance is desirable as appropriate private amenity area will be maintained.</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 6.2.3 – Minimum Rear Yard</b></p> <p>Yes, the variance maintains the general intent and purpose of the Zoning By-law.</p> <p>The intent of the rear yard setback is to ensure separation distance between abutting residential uses and to ensure there remains adequate amenity area for the lot in question. There remains an outdoor amenity area of approximately 81.5 m<sup>2</sup> to serve the proposed units.</p> <p>Further, the property backs on to lands zoned for Environmental Protection. There would appear to be ample separation to neighbouring land uses in terms of rear yard setback.</p>

	<p>The existing structures are currently on, or near, the edge of the top of slope and are closer to the Significant Woodland than the proposed semi-detached dwelling.</p> <p>With regards to the reduced rear yard, lot grading and drainage requirements are recommended as a condition of approval for the proposed development. A condition is being recommended that requires the proponent to prepare a grading and drainage plan to the satisfaction of the Director of Public Works that demonstrates that appropriate on-site drainage can occur without adversely impacting adjacent properties.</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 6.2.3 – Minimum Rear Yard</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. The subject land's use is within the permitted use of the Urban Living Area / Built Boundary designation. The variance will facilitate appropriate redevelopment and intensification within an existing residential neighbourhood and does not conflict with any policies subject to demonstration of appropriate urban design and fulfillment of the proposed conditions of approval, including a lot grading and drainage plan.</p> <p>An Environmental Impact Study delineated the Significant Woodland feature. The proposed development is outside the natural heritage feature, and the dwellings are proposed with a setback of approximately 8m from the feature.</p> <p>As such, staff are of the opinion the variance maintains the general intent and purpose of the Official Plan.</p>

### Agency and Public Comments:

On March 6, 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.
- Public Works Department
  - Please be advised that no sideyard walkways that impede sideyard swales shall be permitted
  - Please note that the Town does not allow any service connections for Part 4 as it is not within the urban boundary.
- Niagara Region

- Refer to comments on consent applications.
- Niagara Peninsula Conservation Authority
  - Refer to comments on consent applications.

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

### **Planning Staff Comments:**

Planning staff have reviewed the Planning Opinion Letter submitted by Upper Canada Consultants dated February 29, 2024, as well as reviewed all agency and public correspondence submitted to date.

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.

The requested variance is minor in nature, conforms to the general policies and intent of both the Official Plan and Zoning By-law and is appropriate for the development and use of the land.

### **Planning Staff Recommendation:**

Planning staff recommend that minor variance file A7/2024P **be approved** subject to the following condition(s):

**THAT** the applicant:

- That all necessary building and demolition permits be acquired prior to construction commencing, to the satisfaction of the Chief Building Official.
- Town staff will require a comprehensive lot grading and drainage plan demonstrating that storm water runoff will not negatively impact nor rely upon neighboring properties, to the satisfaction of the Director of Public Works or his designate.
- That the approval of the minor variance is subject to Consent Files B4-2024P and B5-2024P obtaining final approval.

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

Andrew Edwards, BES  
Planner

### **Recommended by:**

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