



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

Monday, May 06, 2024

**Minor Variance Application: A9-2024P**

**Municipal Address: 2 Pelham Town Square**

**Legal Description: PLAN 25 PT LOT 26 NP717 RP, 59R2648 PART 1**

**Roll number: 2732 030 004 13601**

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

The subject land is located on the east side of Pelham Street, lying south of Highway 20, being Part of Lot 26, Plan 25, in the Town of Pelham.

The subject land is zoned Town Square (TS) in accordance with Pelham Zoning By-law 4481 (2022), as amended. Application is made to facilitate the construction of a 5-storey mixed-use building:

1. **Section 4.1.1 "Minimum Parking Requirements"** – to permit a minimum number of vehicular parking spaces of 1.17 spaces per dwelling unit (55 spaces), whereas the By-law requires a minimum of 1.25 vehicular parking spaces per dwelling unit (59 spaces); and
2. **Section 4.1.1 "Minimum Parking Requirements"** – to permit a minimum number of 1.35 parking spaces per 100m<sup>2</sup> gross leasable floor area "GLFA" (2 spaces), whereas the By-law requires a minimum of 3.25 parking spaces per 100m<sup>2</sup> GLFA (5 spaces); and
3. **Section 4.1.4.1(a) "Parking Space Dimensions and Requirements"** – to permit a minimum vertical clearance of 2.5m for a parking space, whereas the By-law requires a minimum vertical clearance of 4.2m; and
4. **Section 4.3.1 "Minimum Bicycle Parking Requirements"** – to permit a minimum of 0.25 short-term bicycle parking spaces per dwelling unit (12 spaces), whereas the By-law requires a minimum of 0.8 short-term bicycle parking spaces per dwelling unit (38 spaces); and
5. **Section 8.3.1 "Town Square (TS) Permitted Uses"** – to permit residential apartments located on and above the first floor, whereas the By-law does not permit residential apartments at grade; and
6. **Section 8.3.3 "Town Square (TS) Zone Requirements"** – to permit a maximum retail frontage of 28m, whereas the By-law allows 12m; and
7. **Section 8.3.3 "Town Square (TS) Zone Requirements"** – to permit a minimum of 35% first-floor glazing, whereas the By-law requires a minimum of 50% first-floor glazing; and

8. **Section 8.3.3 “Town Square (TS) Zone Requirements”** – to permit a maximum building height of 20.5m for a Landmark Site, whereas the By-law permits a maximum building height of 20m.

The site is located on the south side of Pelham Town Square. The site has approximately 55 metres of frontage on Pelham Town Square and is 1,530.63 square metres in area. Vehicular access to the site is provided from a driveway on Pelham Town Square. The site currently contains a parking area and two storey commercial building.

Surrounding land uses include commercial uses fronting Highway 20 to the north, a commercial plaza to the west, Peace Park and Pelham Municipal Offices to the south, and commercial/residential uses fronting Pelham Street to the east. The subject lands are also adjacent to the Pelham Farmer’s Market, which occupies the municipal parking lot to the west and operates every Thursday evening from May to October.

The applicant intends to construct a five-storey mixed-use building, consisting of a 148.4 square metre commercial unit, and 47 residential units, ranging in size. The commercial unit is below grade and fronts Pelham Town Square. Seven (7) of the 47 residential units are located on the ground floor, with the remaining 4 floors containing the remaining units. Parking for the development is proposed both at grade, and one level of underground parking. A total of 57 parking spaces are proposed to accommodate the site. 16 short-term bicycle parking spaces are provided at the northwest entrance of the building. 36 long-term bicycle parking spaces are located in the underground parking garage.

The concrete sidewalk providing access to the retail unit encroaches into the municipal road allowance. It is anticipated that the developer will enter into an encroachment agreement with the Town.

### **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.

Policy 1.4.1 and 1.4.2 speak to the need to provide an appropriate range and mix of housing options and densities to meet projected market-based and affordable housing needs of current and future residents by permitting and facilitating all housing options and all types of residential intensification in accordance with the policies of the PPS.

Policy 2.6.2 states that development and site alteration shall not be permitted on lands containing archaeological resources or archaeological potential unless the resources have been conserved. The Town’s Heritage Master Plan identifies this area as having high archaeological resource potential. An archaeological assessment was identified as an application requirement during pre-consultation with the applicant. As such, staff will require an archaeological assessment with the site plan submission.

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.

Policy A2.2.2 Growth & Settlement – states that it is a goal of this Plan to encourage the majority of development to the Urban Areas where full sewer and water services are available, and the objective is to encourage intensification and redevelopment within the Urban Area and in proximity to the Downtown, encourage diversity in housing to accommodate the broadest range of income levels and provide for housing that is affordable to the community. The proposed development is a form of intensification of an underutilized site in the Urban Area. It is noted however, that the proposed development is not considered to be affordable, however will provide housing for a greater range of income levels.

B1.2.4.1(c) states that at least 50% of the dwellings to be constructed in the Downtowns should be affordable to low- and moderate-income households. According to the planning justification report, the proposed development does not explicitly contemplate, require, or exclude the provision for affordable housing units. A variety of unit sizes are proposed which will lend to a more affordable product.

The local Official Plan designates the subject land as Downtown. The purpose 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, within which a pedestrian-oriented environment can be fostered. Permitted uses include a mix of retail and other such commercial uses, among residential uses.

The scale and location of new development in the Downtown area is to maintain and enhance the character of the Downtown areas; in Fonthill the promotion of a "town character" is encouraged, emphasised by mixed use buildings, which are to be accessible and linked to existing public spaces.

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. Staff of the opinion the proposal generally conforms with the Town's Official Plan. Staff are in agreement with the analysis presented in the urban design brief included in the planning justification report.

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 planning justification brief along with the application that provided a policy analysis of the proposed variances.

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

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

The subject lands are zoned Town Square (TS) per Town of Pelham Comprehensive Zoning By-law 4481. Residential apartments located above the first floor, various commercial/retail uses, and accessory uses are permitted uses in the TS zone. Under the regulations of the Zoning By-law, the minor variance application requests relief from:

1. **Section 4.1.1 "Minimum Parking Requirements"** – to permit a minimum number of vehicular parking spaces of 1.17 spaces per dwelling unit (55 spaces), whereas the By-law requires a minimum of 1.25 vehicular parking spaces per dwelling unit (59 spaces); and
2. **Section 4.1.1 "Minimum Parking Requirements"** – to permit a minimum number of 1.35 parking spaces per 100m<sup>2</sup> gross leasable floor area "GLFA" (2 spaces), whereas the By-law requires a minimum of 3.25 parking spaces per 100m<sup>2</sup> GLFA (5 spaces); and
3. **Section 4.1.4.1(a) "Parking Space Dimensions and Requirements"** – to permit a minimum vertical clearance of 2.5m for a parking space, whereas the By-law requires a minimum vertical clearance of 4.2m; and
4. **Section 4.3.1 "Minimum Bicycle Parking Requirements"** – to permit a minimum of 0.25 short-term bicycle parking spaces per dwelling unit (12 spaces), whereas the By-law requires a minimum of 0.8 short-term bicycle parking spaces per dwelling unit (38 spaces); and
5. **Section 8.3.1 "Town Square (TS) Permitted Uses"** – to permit residential apartments located on and above the first floor, whereas the By-law does not permit residential apartments at grade; and

6. **Section 8.3.3 "Town Square (TS) Zone Requirements"** – to permit a maximum retail frontage of 28m, whereas the By-law allows 12m; and
7. **Section 8.3.3 "Town Square (TS) Zone Requirements"** – to permit a minimum of 35% first-floor glazing, whereas the By-law requires a minimum of 50% first-floor glazing; and
8. **Section 8.3.3 "Town Square (TS) Zone Requirements"** – to permit a maximum building height of 20.5m for a Landmark Site, whereas the By-law permits a maximum building height of 20m.

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
<p>The variance is minor in nature.</p>	<p><b>Section 4.1.1 Minimum Parking Requirements – Residential</b></p> <p>Yes, the variance is considered minor in nature. The variance requests a reduction in the parking rate for residential dwelling units from 1.25 parking spaces per unit, to 1.17 parking spaces per unit. This is effectively a reduction of 4 parking spaces. Each of the 47 residential units will have a dedicated parking space, with seven (7) additional spaces that can be dedicated for visitor parking, or additional spaces for a certain unit. Each residential unit has a dedicated parking space. In addition, the commercial parking spaces can be used as visitor spaces outside of business hours. It is the opinion of planning staff that the variance is minor in nature.</p>
	<p><b>Section 4.1.1 Minimum Parking Requirements – Commercial</b></p> <p>Yes, the variance is considered minor in nature. The variance requests a reduction to 1.35 parking spaces per 100m<sup>2</sup> gross leasable floor area "GLFA", whereas the By-law requires a minimum of 3.25 parking spaces per 100m<sup>2</sup> GLFA. This is effectively a reduction from five (5) spaces to two (2) spaces. Given the relatively small commercial GFA, two (2) parking spaces is considered appropriate, given the availability of public parking in the vicinity of the site (e.g., Town Hall parking lot). It is noted non-residential parking is not a requirement in adjacent zones (MS zones). As such, staff are of the opinion the variance is minor in nature.</p>
	<p><b>Section 4.1.4.1(a) Parking Space Dimensions and Requirements</b></p> <p>Yes, the variance is considered minor in nature. Staff note the parking space vertical clearance requirement was reduced to 2.0 metres through By-law No. 13 (Housekeeping Amendment, Town File: AM-08-2023) to be in keeping with the minimum requirements of the Ontario Building Code and to provide consistency. However, as the housekeeping amendment is currently under appeal the 4.2 metre requirement remains in effect. The requested variance is greater than the minimum requirement of the OBC. As such, staff are of the opinion the variance is minor in nature.</p>
	<p><b>Section 4.3.1 Minimum Bicycle Parking Requirements</b></p> <p>Yes, the variance is minor in nature. Given the context, the requirement for 0.8 short-term bicycle parking spaces is excessive. The bicycle parking space requirement was reduced to 0.25 spaces per unit through the</p>

	<p>housekeeping amendment. The housekeeping amendment is under appeal and as such, the higher requirement applies. Given the variance request would comply with the reduced requirement as contemplated through the housekeeping amendment, staff are of the opinion the variance is minor in nature. The development will maintain 36 long-term spaces for the use of the residential units. There are adequate short term spaces for visitors to the residential units.</p> <p>Adequate long-term spaces will be provided, and as such the variance is considered minor in nature.</p>
	<p><b>Section 8.3.1 Town Square (TS) Permitted Uses – Residential Uses at Grade</b></p> <p>Yes, the variance is considered minor in nature. Ground level commercial space is being maintained along the Pelham Town Square frontage. The residential uses at grade have frontage along Peace Park, which are not anticipated to detract from the active retail frontage along Pelham Town Square. The development will maintain an active streetscape along Pelham Town Square for pedestrians. As such the variance is considered minor in nature.</p>
	<p><b>Section 8.3.3 Town Square (TS) Zone Requirements – Retail Frontage</b></p> <p>Yes, the variance is considered minor in nature. Due to the configuration of the parking for the site, the design of the retail unit is long and narrow, resulting in a unit that exceeds the maximum retail frontage requirement. From a visual perspective, the variance is not anticipated to detract from the streetscape in a negative way. The unit will maintain a high degree of glazing, contributing to a pedestrian friendly and inviting façade as viewed from the public right of way. As such the variance is considered minor in nature.</p>
	<p><b>Section 8.3.3 Town Square (TS) Zone Requirements – Glazing</b></p> <p>Yes, the variance is considered minor in nature. The elevations provided by the applicant show a high percentage of glazing on the first storey. The variance is deficient 15%. As part of the redevelopment of the site, the site building design will facilitate an active streetscape along Pelham Town Square. Higher storeys maintain a generous percentage of glazing. As such, planning staff are of the opinion the variance is minor in nature.</p>
	<p><b>Section 8.3.3 Town Square (TS) Zone Requirements – Height</b></p> <p>Yes, the variance is considered minor in nature.</p> <p>The variance requests a maximum building height of 20.5 metres whereas a maximum building height of 20.0 metres is permitted. It is noted the request is made to provide flexibility for the design of the building should grading or design changes be made at detailed design. As currently contemplated, the building does not exceed the maximum height.</p> <p>The question of whether a variance is minor in nature is not empirical in nature, rather it is a question of impact. Impact considerations include shadowing, compatibility, visual impact to the streetscape. The increase in height is not anticipated to have significant impacts on neighbouring land uses and is generally in character with surrounding land uses. The sun</p>

	<p>shadowing study showed minimal shadowing impacts on the adjacent park and public spaces. Shadowing is mostly contained to public and private parking spaces, as well as the public ROW.</p> <p>As such, staff are of the opinion the variance is considered minor in nature.</p>
<p>The variance is desirable for the development or use of the land.</p>	<p><b>Section 4.1.1 Minimum Parking Requirements – Residential</b></p> <p>Yes, the variance is desirable for the development or use of the land.</p> <p>The residential and commercial spaces are synergistic from a parking perspective as they have differing peak parking demands at different times of the day. This allows for more efficient use of spaces and ultimately a reduced parking supply that avoids an oversupply, which is desirable for the development of the site. In addition, there is a municipal parking lot to the west of the site which can function as additional visitor parking. Each residential unit will maintain a dedicated parking space. As such, staff are of the opinion that the variance is desirable for the development of the site.</p> <p><b>Section 4.1.1 Minimum Parking Requirements – Commercial</b></p> <p>Yes, refer to analysis above respecting minimum residential parking.</p> <p><b>Section 4.1.4.1(a) Parking Space Dimensions and Requirements</b></p> <p>Yes, the variance is desirable for the development or use of the land.</p> <p>Staff note the vertical clearance requirement was reduced to 2.0 metres through By-law No. 13 (Housekeeping Amendment, Town File: AM-08-2023) to be in keeping with the minimum requirements of the Ontario Building Code and to provide consistency. The variance will enable design flexibility and eliminate excessive height of the structure for parking areas. As such, staff are of the opinion the variance is desirable for the development or use of the land.</p> <p><b>Section 4.3.1 Minimum Bicycle Parking Requirements</b></p> <p>Yes, the variance is desirable for the development or use of the land. Given the context, the requirement for 0.8 short-term bicycle parking spaces is excessive. Adequate short-term spaces will be provided, and allow for better use of space, including more opportunities for enhanced landscaping along Pelham Town Square in the form of tree plantings. It is noted that long-term bike storage inside the building will be provided for the residents, and in addition there are short term bicycle spaces in Peace Park.</p> <p><b>Section 8.3.1 Town Square (TS) Permitted Uses</b></p> <p>Yes, the variance is desirable for the development or use of the land. Permitting residential uses at grade will contribute to the housing stock of downtown Fonthill. Permitting at grade residential dwelling units is not anticipated to detract from the commercial unit along the frontage of the site. The development will bring a commercial use closer to the street’s edge, contributing to an active interface between the site and the ROW. As such, staff are of the opinion the variance is desirable for the development of the lands.</p>

	<p><b>Section 8.3.3 Town Square (TS) Zone Requirements – Retail Frontage</b></p> <p>Yes, the variance is desirable for the development or use of the land. The proposed commercial unit will foster an active street presence, with the use of glazing and shallow setback to the property line. The proposed retail use is compatible with the surrounding area and is appropriate for the site. As such, staff are of the opinion the variance is desirable for the development or use of the land.</p> <p><b>Section 8.3.3 Town Square (TS) Zone Requirements – Glazing</b></p> <p>Yes, the variance is desirable for the development or use of the land. Currently, the existing building does not have a high degree of glazing. The variance will facilitate an appropriate design for the site. As such, staff are of the opinion the variance is desirable for the development or use of the land.</p> <p><b>Section 8.3.3 Town Square (TS) Zone Requirements – Height</b></p> <p>Yes, the variance is desirable for the development or use of the land. The proposal provides for a form of development that is generally compatible and desirable for the surrounding area. The increased height is not anticipated to result in a built form that is inappropriate for the lands. The increased height will allow for design flexibility should changes to the grade be necessary. The increased height is due to is the elimination of much of the surface parking, which is generally considered to be positive and desirable. As such, the variance is considered 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 4.1.1 Minimum Parking Requirements – Residential</b></p> <p>Yes, the variance maintains the general intent and purpose of the Zoning By-law. The intent of the minimum parking space requirement is to ensure a site functions efficiently and meets basic service levels. More than 1 space is available for the exclusive use of each dwelling unit and as such is anticipated to function efficiently. There is adequate public parking in the vicinity of the site for visitor parking.</p> <p>As such, staff are of the opinion the variance maintains the general intent and purpose of the Zoning By-law.</p> <p><b>Section 4.1.1 Minimum Parking Requirements – Commercial</b></p> <p>Yes, the variance maintains the general intent and purpose of the Zoning By-law. The intent of the minimum parking space requirement is to ensure a site functions efficiently and meets basic service levels. Two (2) parking spaces are provided for the commercial unit, which is assumed will be used for employee parking. Staff note in the adjacent Main Street zones there is no parking requirement for non-residential uses. There is adequate public parking in the vicinity of the site to accommodate parking for the commercial use. The reduction in 3 commercial parking spaces is not anticipated to result in significant negative impacts for the parking strategy of the site.</p> <p>As such, staff are of the opinion the variance maintains the general intent and purpose of the Zoning By-law.</p>

**Section 4.1.4.1(a) Parking Space Dimensions and Requirements**

Yes, the variance maintains the general intent and purpose of the Zoning By-law. The intent of zoning by-law is to provide parking spaces with dimensions that accommodate the standard vehicle size. Through the housekeeping amendment, the vertical clearance dimension was changed to 2.0m, in line with the minimum standard of the Ontario Building Code. The requested variance is greater than that of the minimum standard.

As such, staff are of the opinion the variance maintains the general intent of the Zoning By-law.

**Section 4.3.1 Minimum Bicycle Parking Requirements**

Yes, the variance maintains the general intent and purpose of the Zoning By-law.

The intention for requiring short 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. The intention is intended to ensure adequate infrastructure is provided to accommodate cyclists, making it safer and more convenient for short term visitors of the site. The proposed development provides for the required number of long-term bicycle parking spaces, and as such, the short-term spaces are primarily intended for the use of visitors. Further, the short-term requirement was reduced through the housekeeping amendment.

As such, staff are of the opinion that the variance maintains the general intent and purpose of the Zoning By-law.

**Section 8.3.1 Town Square (TS) Permitted Uses**

Yes, the variance maintains the general intent and purpose of the Zoning By-law. The intent of restricting residential uses to be located above grade is to ensure the primary function of the frontage of the building remains commercial, and maintains an active street presence. Due to the grading of the site, the concept contemplates residential units at-grade on the Peace Park with most of the retail unit is below grade on the street side. The development maintains an active street presence along Pelham Town Square. The residential units with frontage on Peace Park are not anticipated to detract from the retail uses proposed along the Pelham Town Square frontage.

As such, staff are of the opinion that the variance maintains the general intent and purpose of the Zoning By-law.

**Section 8.3.3 Town Square (TS) Zone Requirements – Retail Frontage**

Yes, the variance maintains the general intent and purpose of the Zoning By-law. The intent of restricting the retail frontage of individual units is to encourage visual interest from the street, and to encourage an active streetscape. The frontage of the retail unit is a result of its narrow depth. The increased frontage is not anticipated to result in significant impact to the streetscapes in terms of visual interest. The frontage along Pelham Town Square will foster a more active street presence than is currently existing. As such, staff are of the opinion the variance maintains the general intent and purpose of the Zoning By-law.

	<p><b>Section 8.3.3 Town Square (TS) Zone Requirements – Glazing</b></p> <p>Yes, the variance maintains the general intent and purpose of the Zoning By-law. The intent of the glazing requirement is to encourage highly transparent building frontages that foster an active streetscape. The building is proposed to have a high percentage of glazing on both frontages, facing the street as well as public park. The redevelopment of the site will significantly increase the glazing percentage when compared to the existing development. Staff are of the opinion the variance maintains the intent of the zoning by-law.</p>
	<p><b>Section 8.3.3 Town Square (TS) Zone Requirements – Height</b></p> <p>Yes, the variance maintains the general intent and purpose of the Zoning By-law. The intent of the maximum building height is to maintain compatibility between uses and to ensure shadowing and visual impacts and other impacts are mitigated to the extent possible. The residential use of the property is generally compatible in nature with the surrounding land uses, which include parkland, and commercial development. The sun shadowing study including in the planning justification report shows minimal impact on the surrounding area, as shadowing is mostly constrained to public ROW and parking lot. Staff note the request is to maintain flexibility should a minimum change in height be necessary during detailed design. As such, the variance is considered to maintain the general intent and purpose of the Zoning By-law.</p>
<p>The variance maintains the general intent and purpose of the Official Plan.</p>	<p><b>All requested variances</b></p> <p>The variances maintain the general intent and purpose of the Official Plan. The subject lands are designated Downtown according to the Town’s Official Plan. The purpose of the designation is to maintain and promote Downtown Fonthill and Downtown Fenwick as the focal points for commerce and hospitality in the Town, within which a pedestrian-oriented environment can be fostered.</p> <p>The variances will facilitate compatible and appropriate development of the subject property. The redevelopment of the site will facilitate an inviting and pedestrian scaled development. The variance does not conflict with any policies subject to fulfillment of the proposed conditions of approval. As such, the variances maintain the general intent and purpose of the Official Plan.</p>

**Agency and Public Comments:**

On April 9, 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
  - No comments.
- Public Works Department
  - No Construction Hoarding on town property.

- Staging area is to be indicated for materials and site compound.
- No contractor or equipment permitted to park on the Town's road allowance
- Sidewalk on Pelham Town Square to remain open at all times
- Haul Route Plan is required.
- No contractor shall park on municipal parking lots
- A comprehensive Stormwater Management Report is required, detailing the full stormwater management strategy.
- Site servicing plan/Functional Servicing Report
- 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.
- The applicant obtains a Driveway Entrance and Culvert Permit from the Public Works department for the construction of all new or modification of existing driveways or entrances. Installation and/or modification of all entrances shall be completed in accordance with Town Standards. The developer shall bear all costs associated with these works.

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

### **Supporting Materials:**

*Planning Justification Report prepared by Better Neighbourhoods Development Consultants*

- A planning justification report was prepared in support of the minor variance application. The application provided an overview of the development concept, a description of the subject lands and surrounding area, as well as a policy analysis of the proposal's alignment with Provincial and Town policy. The brief also provides an overview of the various supporting materials submitted with the application.
- The report included an urban design brief, sun shadow study, and urban plane analysis.
- The urban design brief assesses the Town's urban design policies and the impact of the development on surrounding uses and the public realm, with a focus on the height of the structure. The building has southerly frontage on Peace Park. As such, the majority of summer shadowing is cast on the municipal parking lot to west, Pelham Town Square to the north, and the commercial plaza parking lot to the east. Winter shadowing is similar, however, more pronounced.

## **Planning Staff Comments:**

Planning staff have reviewed all supporting materials as well as reviewed all agency and public correspondence submitted to date and offer the following for the Committee's consideration.

When considering any Planning Act application, a planner must always consider the "public interest" and ensure that their professional recommendations take this concept into account. In very general terms the public interest reflects policy and the common well-being of a population but often is confused with public opinion or personal interests of the public. Public opinion is what various stakeholders think and say about an issue at a point in time; public interest is an attempt to identify and address the underlying concerns today and into the future, and to balance them against one another, to reach a recommendation. For any project, there is often more than one public interest, and it is the responsibility of the planner to identify and balance these multiple interests to meet the identified needs reflected in public policy and the broader public interest.

The proposed development will provide opportunities to make efficient use of land and infrastructure and ultimately the proposal will contribute towards increasing housing choice and contribute to the development of a complete community, enhancing the downtown core of Fonthill. Generally speaking, a mixed use development in the downtown core is compatible from a land use perspective and the scale and residential density proposed can be integrated with the adjacent uses. Impacts can be mitigated through the implementation of certain building design features, landscaping elements, building placement, minimizing surface parking, etc. to provide for compatible development.

In terms of impact on the Farmer's Market, the planning justification report states the residential component of the building is anticipated to increase patronage of the Farmers' Market due to its high degree of walkability. Also, since the market operates in the evening, the proposed building will not cast shadows onto the market. Staff agree with the conclusion of the report. However, the applicant is advised future residential and commercial development will be impacted by the activities associated with not only the Farmers' Market, but also the Supper Market and Bandshell concert series held on the adjacent Town lands during the summer months. The residential and business units will be subject to noise, odour and loss of views resulting from these events and will need to consider design elements to mitigate the impacts these events have on the development along with the high demand for parking in the area during the events.

Planning staff are of the opinion that the proposed minor variance application is consistent with the PPS and conforms to the policy requirements of the Growth Plan for the Greater Golden Horseshoe, the Region of Niagara Official Plan and the Town Official Plan.

## **Planning Staff Recommendation:**

Planning staff recommend that minor variance file A9/2024P **be approved** subject to the following condition(s):

**THAT** the applicant:

- That the applicant apply for and enter into a site plan agreement with the Town to the satisfaction of the Director of Community Planning and Development.
- Conduct a Stage 1-2 Archaeological Assessment prepared by a licensed archaeologist and receive clearance from the Ministry of Citizenship and Multiculturalism. At a minimum, the Assessment must cover the building envelope of the proposed lot eligible for disturbance and be accepted by the Ministry prior to clearance of this condition. The licensed archaeologist may recommend further archaeological analysis or preservation steps be taken. No demolition, grading or other soil disturbances shall take place on the subject land prior to the issuance of a Ministry letter confirming that all archaeological resource concerns have been mitigated and meet licensing and resource conservation requirements.
- That the applicant enter into an encroachment agreement with the Town to the satisfaction of the Director of Public Works.
- That all necessary building permits be acquired prior to construction commencing, to the satisfaction of the Chief Building Official.
- 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.
- Submit a comprehensive stormwater management report demonstrating that the drainage neither relies, nor negatively impacts neighbouring properties, to the satisfaction of the Director of Public Works, or designate.
- Obtain approval for a Driveway Entrance & Culvert Permit, as applicable, issued through the Public Works department, to Town standards. The applicant shall bear all costs associated with these works.

**Prepared and Submitted by:**

Andrew Edwards, BES  
Planner

**Recommended by:**

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