

Committee of Adjustment
Minutes

Meeting #: 04-2024
Date: Tuesday, April 2, 2024
Time: 4:00 pm
Location: Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

Members Present Brenda Stan
Don Rodbard
Isaiah Banach

Members Absent Colin McCann
John Cappa

Staff Present Sarah Leach
Andrew Edwards
Jodi Legros
Gimuel Ledesma

1. Attendance

Applicants, Agents and viewing members of the public via hybrid in-person and live-stream through the Town of Pelham YouTube Channel.

2. Call to Order, Declaration of Quorum and Introduction of Committee and Staff

Noting that a quorum was present, Chair Banach called the meeting to order at approximately 4:00 pm. The Chair read the opening remarks to inform those present on the meeting protocols and he introduced the hearing panel and members of staff present.

3. Land Recognition Statement

Ms. Sarah Leach, Secretary-Treasurer, recited the land recognition statement.

4. Approval of Agenda

Moved By Don Rodbard

Seconded By Brenda Stan

THAT the agenda for the April 02, 2024, Committee of Adjustment meeting be adopted, as circulated.

Carried

5. Disclosure of Pecuniary Interest and General Nature Thereof

There were no pecuniary interests disclosed by any of the members present.

6. Requests for Withdrawal or Adjournment

Ms. Leach stated the applicant for A4-2024P, 1313 Victoria Avenue, has requested deferral of one of the four requested variances:

- ***Sections 3.1(c) On-Farm Diversified Uses*** – relating to front yard setback of 12 metres to a 40m² accessory structure related to an on-farm diversified use (covered tent), whereas on-farm diversified uses are not permitted in the required front yard

7. Applications for Minor Variance

7.1 A4-2024P - 1313 Victoria Avenue

Purpose of the Application

Application for relief is made, to permit a mobile food truck as an On-farm Diversified Use that requires relief from the following section(s) of the Zoning By-law:

Section 3.2.2(a) On-Farm Diversified Uses - Requesting the on-farm diversified use be permitted notwithstanding the use is not directly related to the existing permitted agricultural use(s) on the lot and shall primarily serve the existing permitted agricultural use(s) on the lot and the existing permitted agricultural use(s) on surrounding lots in the area; and

Section 3.2.2(b) On-Farm Diversified Uses - Requesting the on-farm diversified use be permitted notwithstanding the product is not produced by, or derived from, the principal agricultural use(s) on the lot as the primary source of the majority of the product; and

Section 3.1(c) On-Farm Diversified Uses - Requesting a front yard setback of 14 metres to a 18m² accessory structure related to an on-farm

diversified use (food truck), whereas on-farm diversified uses are not permitted in the required front yard.

Representation

The Agents, Jesse Auspitz and Robert Smit, and the Applicants, Teresa and John Rusin were present.

Correspondence Received

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Niagara Region

Applicants Comments

The Chair stated the proposal complies with the Official Plan, reflects OMAFRA guidelines, is minor, and is desirable. The Chair asked how the intent and purpose of the Zoning By-law is being met. The Agent, Robert Smit, responded the intent of the on-farm diversified use provision is that the use be compatible with the agricultural use on the property while permitting flexibility for the owner to diversify their business.

Public Comments

Ms. Leach, Secretary-Treasurer indicated she checked the clerks@pelham.ca email address at 4:18 pm and confirmed no e-mails have been received with regard to the subject application. Ms. Leach indicated the public comment portion of the application could be closed. The Committee agreed to close the public portion of the meeting and deliberate.

Moved By Brenda Stan

Seconded By Don Rodbard

That the public portion of the meeting be closed.

Carried

Member Comments

A Member identified that the period of operation is between April and October and asked if this regulation was enforced through a site plan agreement. Town Planner, Andrew Edwards, confirmed.

The Chair indicated he would not vote on the matter.

Moved By Brenda Stan

Seconded By Don Rodbard

Application A4-2024P for relief of 3.2.2(a) On-Farm Diversified Uses - Requesting the on-farm diversified use be permitted notwithstanding the use is not directly related to the existing permitted agricultural use(s) on the lot and shall primarily serve the existing permitted agricultural use(s) on the lot and the existing permitted agricultural use(s) on surrounding lots in the area, is hereby: GRANTED

The above decision is based on the following reasons:

- 1. The variance is minor in nature as the OFDU is limited in area, is located on a portion of the site that is not actively farmed, is similar in character to the surrounding area, and is not anticipated to have negative impacts in terms of traffic and noise.**
- 2. The general purpose and intent of the Zoning By-Law is maintained.**
- 3. The intent of the Official Plan is maintained.**
- 4. The proposal is desirable for the appropriate development and/or use of the land because the use is not anticipated to be incompatible with the surrounding agricultural area, is not anticipated to cause adverse impacts in terms of traffic volumes, noise, or taking agricultural lands out of active production.**
- 5. This application is granted without prejudice to any other application in the Town of Pelham.**
- 6. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.**

Application for relief of Section 3.2.2(b) On-Farm Diversified Uses - Requesting the on-farm diversified use be permitted notwithstanding

the product is not produced by, or derived from, the principal agricultural use(s) on the lot as the primary source of the majority of the product, is hereby: GRANTED

The above decision is based on the following reasons:

- 1. The variance is minor in nature as the OFDU is limited in area, is located on a portion of the site that is not actively farmed, is similar in character to the surrounding area, and is not anticipated to have negative impacts in terms of traffic and noise.**
- 2. The general purpose and intent of the Zoning By-Law is maintained.**
- 3. The intent of the Official Plan is maintained.**
- 4. The proposal is desirable for the appropriate development and/or use of the land because the use is not anticipated to be incompatible with the surrounding agricultural area, is not anticipated to cause adverse impacts in terms of traffic volumes, noise, or taking agricultural lands out of active production.**
- 5. This application is granted without prejudice to any other application in the Town of Pelham.**
- 6. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.**

Application for relief of Section 3.1(c) On-Farm Diversified Uses - Requesting a front yard setback of 14 metres to a 18m2 accessory structure related to an on-farm diversified use (food truck), whereas on-farm diversified uses are not permitted in the required front yard, is hereby: GRANTED

The above decision is based on the following reasons:

- 1. The variance is minor in nature as the agricultural character of the neighbourhood is not anticipated to be impacted, the lot area remains available to handle stormwater runoff and has adequate area for the OFDU to function.**
- 2. The general purpose and intent of the Zoning By-Law is maintained.**
- 3. The intent of the Official Plan is maintained.**

4. The proposal is desirable for the appropriate development and/or use of the land because the reduced setback will enable the proposed use to be located close to the street for visibility, however, maintaining a generous setback as to not affect sightlines and to alter the character of the surrounding agricultural area.
5. This application is granted without prejudice to any other application in the Town of Pelham.
6. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.

The above decisions are subject to the following conditions:

1. To the Satisfaction of the Director of Community Planning and Development
 1. Apply for site plan approval and enter into a site plan agreement with the Town of Pelham.

Carried

7.2 A5-2024P - 35 Philmori Boulevard

Purpose of the Application

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:

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.

Representation

Representation was not present.

Correspondence Received

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building

Applicants Comments

None.

Public Comments

Ms. Leach, Secretary-Treasurer indicated she checked the clerks@pelham.ca email address at 4:25 pm and confirmed no e-mails have been received with regard to the subject application. Ms. Leach indicated the public comment portion of the application could be closed. The Committee agreed to close the public portion of the meeting and deliberate.

Moved By Don Rodbard

Seconded By Brenda Stan

That the public portion of the meeting be closed.

Carried

Member Comments

A Member asked if the easement referenced is a drainage easement. Engineering Technologist, Gimuel Ledesma, confirmed.

Moved By Don Rodbard

Seconded By Brenda Stan

Application A5-2024P for relief of 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, is hereby: GRANTED

The above decision is based on the following reasons:

- 1. 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.**
- 2. The general purpose and intent of the Zoning By-Law is maintained.**
- 3. The intent of the Official Plan is maintained.**

4. The proposal is desirable for the appropriate development and/or use of the land because it would allow for development of a pool and accessory structures associated with the pool on an existing lot.
5. This application is granted without prejudice to any other application in the Town of Pelham.
6. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.

The above decision is subject to the following conditions:

1. To the Satisfaction of the Director of Community Planning and Development
 1. Obtain a Pool Permit from the Town's By-law Department
2. To the Satisfaction of the Director of Public Works
 1. Submit a comprehensive Lot Grading & Drainage Plan demonstrating that the drainage neither relies, nor negatively impacts neighbouring properties, to the satisfaction of the Director of Public Works, or designate.
 2. 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.

Carried

8. Applications for Consent

8.1 B7-2024P - 61 Port Robinson Road

Purpose of the Application

Application is made for consent to a 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

continued residential use of the dwelling known municipally as 61 Port Robinson Road.

Representation

The Agent, Craig Rohe was present.

Correspondence Received

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building

Applicants Comments

Craig Rohe advised that a rezoning on the property was previously sought and secured. He stated it is the intention that the single detached dwelling remains on the remnant parcel at the time, with the potential for redevelopment in the future.

Public Comments

Shuai Dong expressed concern for water runoff and drainage. Mr. Rohe responded that a site servicing and grading plan is a condition of approval, which will demonstrate that flows can be accommodated. Mr. Rohe assured the grading plan would need to be approved by the Public Works department before building permit issuance.

Ms. Leach, Secretary-Treasurer indicated she checked the clerks@pelham.ca email address at 4:38 pm and confirmed no e-mails have been received with regard to the subject application. Ms. Leach indicated the public comment portion of the application could be closed. The Committee agreed to close the public portion of the meeting and deliberate.

Moved By Brenda Stan

Seconded By Don Rodbard

That the public portion of the meeting be closed.

Carried

Member Comments

The Chair acknowledged the neighbour's concerns and indicated the condition for a grading and drainage plan should satisfy concerns.

Moved By Brenda Stan

Seconded By Isaiah Banach

Application B7-2024P 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 continued residential use of the dwelling known municipally as 61 Port Robinson Road, is hereby:

The above decision is subject to the following conditions:

To the Satisfaction of the Director of Public Works

- 1. 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. The Plan shall show all proposed service connection locations.**
- 2. 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.**
- 3. 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.**
- 4. 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.**

To the Satisfaction of the Director of Community Planning & Development

- 1. 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.**
- 2. 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.

To the Satisfaction of the Secretary-Treasurer

- 1. That the Secretary-Treasurer be provided with a registrable 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.**
- 2. That the final certification fee of \$436, payable to the Treasurer, Town of Pelham, be submitted to the Secretary-Treasurer. All costs associated with fulfilling conditions of consent shall be borne by the applicant.**

This decision is based on the following reasons:

- 1. The application conforms to the policies of the Town of Pelham Official Plan, Regional Policy Plan and Provincial Policy Statement, and complies with the Town's Zoning By-law.**
- 2. This Decision is rendered having regard to the provisions of Sections 51(24) and 51(25) of the Planning Act, R.S.O., as amended.**
- 3. The Committee of Adjustment considered all written and oral submissions and finds that, subject to the conditions of provisional consent, this application meets Planning Act criteria, is consistent with the Provincial Policy Statement and complies with the Growth Plan, the Niagara Region Official Plan and the Town Official Plan.**
- 4. 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.**
- 5. The Owner acknowledges 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 the property line.**
- 6. The Owner acknowledges the sump pump must discharge to grade, and not connect to the proposed RYCB.**

7. **The Owner acknowledges that water service for the existing house will need to be relocated to accommodate the proposed driveway, as the Town does not allow water services to be located under driveways.**

Carried

8.2 B4-2024P 201 Canboro Road - Part 1

Application B4-2024P and B5-2024P were considered concurrently.

Purpose of the Application

Application B4-2024P is made for consent to partial discharge of mortgage and consent to convey 380.9 square metres of land (Part 1), for future construction of a semi-detached dwelling unit. Part 3 is to be dedicated to the Town of Pelham for a road widening (no longer required). Part 4 is to be retained for continued residential use.

Application B5-2024P is made for consent to partial discharge of mortgage and consent to convey 348 square metres of land (Part 2), for future construction of a semi-detached dwelling. Part 3 is to be dedicated to the Town of Pelham for a road widening (no longer required). Part 4 is to be retained for continued residential use.

Representation

The Agent, William Heikoop was present.

Correspondence Received

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Niagara Region
5. NPCA

Applicants Comments

William Heikoop provided a brief presentation to further explain the proposal. A copy is available through the Secretary-Treasurer.

Mr. Heikoop expressed satisfaction with the majority of proposed conditions and asked the Committee to reconsider imposing the condition for the NPCA works permit.

Public Comments

Karen Buckley discussed Canada's climate goals and stated the woodlot at 201 Canboro Road supports the existing habitat and greenbelt. Ms. Buckley advised of a stipulation at the time of sale requiring that any changes not exceed the total area of the existing house. Ms. Buckley requested the past precedent of protecting the woodlot be upheld and asked if the total area is going to be changed from what is existing. The Chair clarified that the Committee's role in decision-making relies on assessing the Planning Act tests.

Sophie Buckley expressed the woodlot is a special place. She stated nature is important for both children and mental health. Sophie asked the Committee to consider the current and future children of Pelham.

Brian Young and Angela MacRae indicated the proposal appeared like too much intensification. Mr. Young and Ms. MacRae expressed concern for the maintenance of the private sewage system. They expressed further concern for traffic, speed, parking for visitors, and the safety of residents backing out of this development onto Canboro Road. Mr. Young asked what happens during snow clearing when the ditch becomes full, and identified that the culvert is not currently working properly. Mr. Young and Ms. MacRae expressed concern for stormwater runoff and drainage.

Nora Peat discussed her history with the property and the surrounding area. Ms. Peat agreed with the concerns expressed regarding traffic, parking, and safety. Ms. Peat expressed concern for stormwater runoff and drainage which would exacerbate existing issues and potentially lead to erosion. Ms. Peat discussed the threat of moral injury and gentrification. Ms. Peat asked about the change regarding the road widening and stated the proposal was poorly considered for the property.

The Chair asked why the road widening was no longer required. Engineering Technologist, Gimuel Ledesma, explained that the road was previously a regional road with road widening requirements.

The Chair asked if there is a restrictive covenant on title. The Agent, William Heikoop indicated he was not aware of any restrictive covenants and advised that any agreement would be subject to a civil matter outside of the Committee's purview. Mr. Heikoop advised that an environmental

impact study had been conducted and indicated several recommendations were made to ensure the applicant is not negatively impacting the woodlot feature.

Mr. Heikoop stated the geotechnical top-of-slope assessment indicated the slope was stable in the long term. Mr. Heikoop stated the proposed dwellings are closer to the road than the existing which increases the separation between the woodlot and the residential area. He assured the application does not fragment the feature.

Mr. Heikoop advised the dwellings will be serviced through a force main system. He discussed the requirement for a lot grading and drainage plan which should address drainage concerns and demonstrate that the development will maintain a similar drainage pattern. The Chair asked about the requirements for a force main once taken over by the municipality. Mr. Heikoop indicated it was a matter of maintenance.

With respect to traffic and driveway concerns, Mr. Heikoop stated that speed is an enforcement issue. Mr. Heikoop advised that the Zoning By-law parking requirements are met. He further advised that a driveway entrance permit and a new culvert are required to ensure that the flow of water isn't impeded. Concerning snow clearing, Mr. Heikoop indicated that while the Town deposits collected snow, there is a portion between the property line and the road that should accommodate additional snow if necessary.

A Member agreed that the location was not optimal for backing out of the driveway. Mr. Heikoop advised there are sufficient sightlines which should not be an issue if individuals are following the speed limit. Mr. Heikoop indicated alternatives are not visually desirable.

Mr. Heikoop explained the difference between what is permitted in the urban and rural boundaries, including service requirements and proposed use. Mr. Heikoop explained that the proposal could be brought forward through a site plan agreement but expressed desirability to obtain provisional approval through the consent process. He stated the dwellings are not meant to be luxury homes and are proposed to be between 800 and 1000 square feet.

Ms. Leach, Secretary-Treasurer indicated she checked the clerks@pelham.ca email address at 5:54 pm and confirmed no e-mails had been received with regard to the subject application. Ms. Leach indicated the public comment portion of the application could be closed.

The Committee agreed to close the public portion of the meeting and deliberate.

Moved By Brenda Stan

Seconded By Don Rodbard

That the public portion of the meeting be closed.

Carried

Member Comments

The Chair stated that the use and parking as proposed is permitted. He stated that the NPCA, Niagara Region, and Town have looked at all aspects of the proposal and there is no reason to doubt their conclusions. The Chair expressed the proposal appeared to satisfy the requirements of the Planning Act.

Moved By Brenda Stan

Seconded By Isaiah Banach

Application B4-2024P is made for consent to partial discharge of mortgage and consent to convey 380.9 square metres of land (Part 1), for future construction of a semi-detached dwelling unit. Part 3 is to be dedicated to the Town of Pelham for a road widening (no longer required). Part 4 is to be retained for continued residential use, is hereby: GRANTED

The above decision is subject to the following conditions:

To the Satisfaction of the Director of Public Works

- 1. 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.**
- 2. 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.**

3. 2 units in the proposed Part 1 lot are to be individually serviced with its own sanitary and water connections if permitted. This work is to be done by the owner, at the owner's expense, and will require a Temporary Works Permit. Should these services cross property lines, Public Works will not support the consent to sever. These works are to be completed prior to 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.
4. That the Applicant submit a Site Servicing Plan.
5. 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.

To the Satisfaction of the Director of Community Planning & Development

1. That 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.
2. That the Applicant enter into a Development Agreement with the Town for Part 1, to ensure that all recommendations of the Environmental Impact Study (dated November 29, 2023) are implemented to the satisfaction of the Director of Community Planning and Development, including but not limited to:
 - a. That a Tree Preservation Plan (TPP) be prepared, to the satisfaction of Niagara Region, that indicates any trees that need to be removed to allow for the development of Part 1. The TPP should be prepared in accordance with the Region's Woodland Conservation By-law (By-law 20-79).
 - b. That the development agreement contain wording wherein the owner agrees to implement the approved Tree Preservation Plan, prior to construction.
 - c. Any necessary tree removal and demolition of the existing buildings or structures will take place between October 1 and April 30 to avoid the active season for bats. Should minor tree removal be required between May 1 and September 30, a qualified professional will complete an exit survey of suitable maternal roosting sites identified for removal a maximum of 24 hours before removal. The exit survey must make use of a bat

detector and will occur for no less than the time period between sunset and 60 minutes after sunset. If an Endangered bat is identified during the survey, Ministry of the Environment, Conservation and Parks (MECP) should be contacted to obtain further direction prior to removal of the tree.

- d. If construction activities occur during the active bat season (i.e., May 1 and September 30), work will be restricted to daylight hours only and the use of artificial lighting will be avoided.
- e. Any lighting incorporated into the final building designs should be directed downward (i.e., towards the ground) and/or away from the adjacent woodlot (i.e., directed eastward) to the extent practicable.
- f. The removal of trees will be restricted to areas in direct conflict with the footprints of the proposed development features (e.g., residence, septic system, driveway, etc.) and grading, along with any hazardous trees in the immediate vicinity that pose an unacceptable risk to human life or property.
- g. All necessary vegetation removal will be completed outside the primary bird nesting period (i.e., to be completed between September 1 and March 31). Should minor vegetation removal be proposed during the bird nesting period, a bird nesting survey will be undertaken to confirm the presence or absence of nesting birds or bird nests within or adjacent to the areas subject to vegetation clearance. The survey is to take place within 48 hours of vegetation removal.
- h. Incorporation of Bird-Friendly Guidelines into the residence design such as those published in City of Toronto's "Best Practices for Bird-Friendly Glass" and "Best Practices for Effective Lighting" should be considered at detailed design.
- i. Any Landscape Plans prepared as part of the development approval should incorporate species native to the local landscape.
- j. That a light duty silt fence be installed at the limit of any excavation and grading to delineate the work area and help minimize impacts (e.g., sedimentation and accidental encroachment) to adjacent vegetation and that the silt fence be properly embedded (as per Ontario Provincial Standard Specification 805) into the ground to reduce any offsite movement of silt. The silt fence used should be one that does not

include a mesh component, to avoid risk of entanglement of wildlife.

- k. That the contractor has a spill kit on site to minimize potential contamination from accidental spills. The equipment should be inspected for leaks and refueling be completed in accordance with best management practices and at least 30 m away from the woodland.
 - l. That continuous, permanent fencing be installed along the rear property line, adjacent to the Significant Woodland, to delineate property boundaries to limit potential encroachment into the woodland.
3. That the Applicant Enter into a Development Agreement with the Town for Part 4, to ensure that all recommendations of the Environmental Impact Study (dated November 29, 2023) are implemented to the satisfaction of the Director of Community Planning and Development, including but not limited to:
- a. That a Woodland Enhancement Plan be prepared, to the satisfaction of Niagara Region, for the area indicated on Figure 3 of the EIS. The Plan shall consist of a diversity of native tree and shrub plantings and incorporate wildlife habitat enhancement elements. Plantings of Pignut Hickory shall be incorporated into the Woodland Enhancement Plan
 - b. That a Tree Preservation Plan (TPP) be prepared, to the satisfaction of Niagara Region, that indicates any trees that need to be removed to allow for the development of Part 4. The TPP should be prepared in accordance with the
 - c. Region's Woodland Conservation By-law (By-law 20-79).
 - d. That the development agreement contain wording wherein the owner agrees to implement the approved Tree Preservation Plan and Woodland Enhancement Plan, prior to construction.
 - e. That tree protection fencing be installed surrounding the Eastern Flowering Dogwood at the time of construction to avoid incidental mechanical damage to the trunk, branches, or roots.
 - f. Any necessary tree removal and demolition of the existing buildings or structure will take place between October 1 and April 30 to avoid the active season for bats. Should minor tree removal be required between May 1 and September 30, a qualified professional will complete an exit survey of suitable maternal roosting sites identified for removal a maximum of 24 hours before removal. The exit survey must make use of a bat detector

and will occur for no less than the time period between sunset and 60 minutes after sunset. If an Endangered bat is identified during the survey, Ministry of the Environment, Conservation and Parks (MECP) should be contacted to obtain further direction prior to removal of the tree.

- g. If construction activities occur during the active bat season (i.e., May 1 and September 30), work will be restricted to daylight hours only and the use of artificial lighting will be avoided.
 - h. The removal of trees will be restricted to areas in direct conflict with the footprints of the proposed development features (e.g., residence, septic system, driveway, etc.) and grading, along with any hazardous trees in the immediate vicinity that pose an unacceptable risk to human life or property.
 - i. All necessary vegetation removal will be completed outside the primary bird nesting period (i.e., to be completed between September 1 and March 31). Should minor vegetation removal be proposed during the bird nesting period, a bird nesting survey will be undertaken to confirm the presence or absence of nesting birds or bird nests within or adjacent to the areas subject to vegetation clearance. The survey is to take place within 48 hours of vegetation removal.
 - j. Any Landscape Plans prepared as part of the development approval should incorporate species native to the local landscape.
 - k. That a light duty silt fence be installed at the limit of any excavation and grading to delineate the work area and help minimize impacts (e.g., sedimentation and accidental encroachment) to adjacent vegetation and that the silt fence be properly embedded (as per Ontario Provincial Standard Specification 805) into the ground to reduce any offsite movement of silt. The silt fence used should be one that does not include a mesh component, to avoid risk of entanglement of wildlife.
 - l. That the contractor has a spill kit on site to minimize potential contamination from accidental spills. The equipment should be inspected for leaks and refueling be completed in accordance with best management practices and at least 30 m away from the woodland
4. That the following archaeological advisory clause be inserted in the Development Agreement between the landowner and Town of Pelham:

“Should deeply buried archaeological remains/resources be found during construction activities, all activities impacting archaeological resources must cease immediately, and the proponent must notify the Archaeology Programs Unit of the Ministry of Citizenship and Multiculturalism (MCM) (416-212-8886) and contact a licensed archaeologist to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists.

In the event that human remains are encountered during construction, all activities must cease immediately and the Niagara Regional police as well as the Cemeteries Regulation Unit of the Ministry of Public and Business Services Delivery (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, the MCM should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the Ontario Heritage Act.”

- 5. That final approval of all necessary zoning approvals be obtained for Part 1, through the approval of minor variance application A6-2024P.**

To the Satisfaction of the Secretary-Treasurer

- 1. That the Secretary-Treasurer be provided with a registrable 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.**
- 2. That the final certification fee of \$436, payable to the Treasurer, Town of Pelham, be submitted to the Secretary-Treasurer. All costs associated with fulfilling conditions of consent shall be borne by the applicant.**

This decision is based on the following reasons:

- 1. The application conforms to the policies of the Town of Pelham Official Plan, Regional Policy Plan and Provincial Policy Statement, and complies with the Town’s Zoning By-law.**
- 2. This Decision is rendered having regard to the provisions of Sections 51(24) and 51(25) of the Planning Act, R.S.O., as amended.**
- 3. The Committee of Adjustment considered all written and oral submissions and finds that, subject to the conditions of provisional consent, this application meets Planning Act criteria, is consistent**

with the Provincial Policy Statement and complies with the Growth Plan, the Niagara Region Official Plan and the Town Official Plan.

4. The Applicant is aware that no sideyard walkways that impede sideyard swales are permitted and that the Town does not allow any service connections for Part 4 as it is not within the urban boundary.
5. The Applicant is aware that any proposed development will require NPCA approval and possible work permits.

Carried

Moved By Brenda Stan

Seconded By Isaiah Banach

Application B5-2024P is made for consent to partial discharge of mortgage and consent to convey 348 square metres of land (Part 2), for future construction of a semi-detached dwelling. Part 3 is to be dedicated to the Town of Pelham for a road widening (no longer required). Part 4 is to be retained for continued residential use, is hereby: **GRANTED**

The above decision is subject to the following conditions:

To the Satisfaction of the Director of Public Works

1. 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.
2. 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.
3. 2 units in the proposed Part 2 lot are to be individually serviced with its own sanitary and water connections if permitted. This work is to be done by the owner, at the owner's expense, and will require a Temporary Works Permit. Should these services cross property lines, Public Works will not support the consent to sever. These works are to be completed prior to 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.

- 4. That the Applicant submit a Site Servicing Plan.**
- 5. 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.**

To the Satisfaction of the Director of Community Planning & Development

- 1. That 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.**
- 2. Enter into a Development Agreement with the Town for Part 2, to ensure that all recommendations of the Environmental Impact Study (dated November 29, 2023) are implemented to the satisfaction of the Director of Community Planning and Development, including but not limited to:**
 - a. That a Tree Preservation Plan (TPP) be prepared, to the satisfaction of Niagara Region, that indicates any trees that need to be removed to allow for the development of Part 2. The TPP should be prepared in accordance with the Region's Woodland Conservation By-law (By-law 20-79).**
 - b. That the development agreement contain wording wherein the owner agrees to implement the approved Tree Preservation Plan, prior to construction.**
 - c. Any necessary tree removal and demolition of the existing buildings or structures will take place between October 1 and April 30 to avoid the active season for bats. Should minor tree removal be required between May 1 and September 30, a qualified professional will complete an exit survey of suitable maternal roosting sites identified for removal a maximum of 24 hours before removal. The exit survey must make use of a bat detector and will occur for no less than the time period between sunset and 60 minutes after sunset. If an Endangered bat is identified during the survey, Ministry of the Environment, Conservation and Parks (MECP) should be contacted to obtain further direction prior to removal of the tree.**

- d. If construction activities occur during the active bat season (i.e., May 1 and September 30), work will be restricted to daylight hours only and the use of artificial lighting will be avoided.**
- e. Any lighting incorporated into the final building designs should be directed downward (i.e., towards the ground) and/or away from the adjacent woodlot (i.e., directed eastward) to the extent practicable.**
- f. The removal of trees will be restricted to areas in direct conflict with the footprints of the proposed development features (e.g., residence, septic system, driveway, etc.) and grading, along with any hazardous trees in the immediate vicinity that pose an unacceptable risk to human life or property.**
- g. All necessary vegetation removal will be completed outside the primary bird nesting period (i.e., to be completed between September 1 and March 31). Should minor vegetation removal be proposed during the bird nesting period, a bird nesting survey will be undertaken to confirm the presence or absence of nesting birds or bird nests within or adjacent to the areas subject to vegetation clearance. The survey is to take place within 48 hours of vegetation removal.**
- h. Incorporation of Bird-Friendly Guidelines into the residence design such as those published in City of Toronto's "Best Practices for Bird-Friendly Glass" and "Best Practices for Effective Lighting" should be considered at detailed design.**
- i. Any Landscape Plans prepared as part of the development approval should incorporate species native to the local landscape.**
- j. That a light duty silt fence be installed at the limit of any excavation and grading to delineate the work area and help minimize impacts (e.g., sedimentation and accidental encroachment) to adjacent vegetation and that the silt fence be properly embedded (as per Ontario Provincial Standard Specification 805) into the ground to reduce any offsite movement of silt. The silt fence used should be one that does not include a mesh component, to avoid risk of entanglement of wildlife.**
- k. That the contractor has a spill kit on site to minimize potential contamination from accidental spills. The equipment should be inspected for leaks and refueling be completed in accordance with best management practices and at least 30 m away from the woodland.**
- l. That continuous, permanent fencing be installed along the rear property line, adjacent to the Significant Woodland, to delineate**

property boundaries to limit potential encroachment into the woodland.

3. That the Applicant Enter into a Development Agreement with the Town for Part 4, to ensure that all recommendations of the Environmental Impact Study (dated November 29, 2023) are implemented to the satisfaction of the Director of Community Planning and Development, including but not limited to:
 - a. That a Woodland Enhancement Plan be prepared, to the satisfaction of Niagara Region, for the area indicated on Figure 3 of the EIS. The Plan shall consist of a diversity of native tree and shrub plantings and incorporate wildlife habitat enhancement elements. Plantings of Pignut Hickory shall be incorporated into the Woodland Enhancement Plan
 - b. That a Tree Preservation Plan (TPP) be prepared, to the satisfaction of Niagara Region, that indicates any trees that need to be removed to allow for the development of Part 4. The TPP should be prepared in accordance with the
 - c. Region's Woodland Conservation By-law (By-law 20-79).
 - d. That the development agreement contain wording wherein the owner agrees to implement the approved Tree Preservation Plan and Woodland Enhancement Plan, prior to construction.
 - e. That tree protection fencing be installed surrounding the Eastern Flowering Dogwood at the time of construction to avoid incidental mechanical damage to the trunk, branches, or roots.
 - f. Any necessary tree removal and demolition of the existing buildings or structure will take place between October 1 and April 30 to avoid the active season for bats. Should minor tree removal be required between May 1 and September 30, a qualified professional will complete an exit survey of suitable maternal roosting sites identified for removal a maximum of 24 hours before removal. The exit survey must make use of a bat detector and will occur for no less than the time period between sunset and 60 minutes after sunset. If an Endangered bat is identified during the survey, Ministry of the Environment, Conservation and Parks (MECP) should be contacted to obtain further direction prior to removal of the tree.
 - g. If construction activities occur during the active bat season (i.e., May 1 and September 30), work will be restricted to daylight hours only and the use of artificial lighting will be avoided.

- h. The removal of trees will be restricted to areas in direct conflict with the footprints of the proposed development features (e.g., residence, septic system, driveway, etc.) and grading, along with any hazardous trees in the immediate vicinity that pose an unacceptable risk to human life or property.
 - i. All necessary vegetation removal will be completed outside the primary bird nesting period (i.e., to be completed between September 1 and March 31). Should minor vegetation removal be proposed during the bird nesting period, a bird nesting survey will be undertaken to confirm the presence or absence of nesting birds or bird nests within or adjacent to the areas subject to vegetation clearance. The survey is to take place within 48 hours of vegetation removal.
 - j. Any Landscape Plans prepared as part of the development approval should incorporate species native to the local landscape.
 - k. That a light duty silt fence be installed at the limit of any excavation and grading to delineate the work area and help minimize impacts (e.g., sedimentation and accidental encroachment) to adjacent vegetation and that the silt fence be properly embedded (as per Ontario Provincial Standard Specification 805) into the ground to reduce any offsite movement of silt. The silt fence used should be one that does not include a mesh component, to avoid risk of entanglement of wildlife.
 - l. That the contractor has a spill kit on site to minimize potential contamination from accidental spills. The equipment should be inspected for leaks and refueling be completed in accordance with best management practices and at least 30 m away from the woodland
- 4. That the following archaeological advisory clause be inserted in the Development Agreement between the landowner and Town of Pelham:
“Should deeply buried archaeological remains/resources be found during construction activities, all activities impacting archaeological resources must cease immediately, and the proponent must notify the Archaeology Programs Unit of the Ministry of Citizenship and Multiculturalism (MCM) (416-212-8886) and contact a licensed archaeologist to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists.

In the event that human remains are encountered during construction, all activities must cease immediately and the Niagara Regional police as well as the Cemeteries Regulation Unit of the Ministry of Public and Business Services Delivery (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, the MCM should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the Ontario Heritage Act.”

- 5. That final approval of all necessary zoning approvals be obtained for Part 2, through the approval of minor variance application A7-2024P.**

To the Satisfaction of the Secretary-Treasurer

- 1. That the Secretary-Treasurer be provided with a registrable 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.**
- 2. That the final certification fee of \$436, payable to the Treasurer, Town of Pelham, be submitted to the Secretary-Treasurer. All costs associated with fulfilling conditions of consent shall be borne by the applicant.**

This decision is based on the following reasons:

- 1. The application conforms to the policies of the Town of Pelham Official Plan, Regional Policy Plan and Provincial Policy Statement, and complies with the Town’s Zoning By-law.**
- 2. This Decision is rendered having regard to the provisions of Sections 51(24) and 51(25) of the Planning Act, R.S.O., as amended.**
- 3. The Committee of Adjustment considered all written and oral submissions and finds that, subject to the conditions of provisional consent, this application meets Planning Act criteria, is consistent with the Provincial Policy Statement and complies with the Growth Plan, the Niagara Region Official Plan and the Town Official Plan.**
- 4. The Applicant is aware that no sideyard walkways that impede sideyard swales are permitted and that the Town does not allow any service connections for Part 4 as it is not within the urban boundary.**
- 5. The Applicant is aware that any proposed development will require NPCA approval and possible work permits.**

8.3 B5-2024P - 201 Canboro Road - Part 2

File B5-2024P was heard concurrently with B4-2024P. See B4-2024P for minutes and decisions.

9. Applications for Minor Variance

Applications A6-2024P and A7-2024P were heard concurrently.

9.1 A6-2024P - 201 Canboro Road - Part 1

Purpose of the Application

Application A6-2024P for relief is made, to facilitate the construction of a semi-detached dwelling on Part 1 and to rectify zoning deficiencies as a result of a consent application B4-2024P. The applicant seeks relief from the following section(s) of the Zoning By-law: Section 6.2.3 (Semi-Detached Dwelling) “Minimum Rear Yard” – to permit a minimum rear yard setback of 5.75m whereas the By-law requires a minimum rear yard setback of 7.5m.

Application A7-2024P for relief is made, to facilitate the construction of a semi-detached dwelling on Part 2 and to rectify zoning deficiencies as a result of a consent application B5-2024P. The applicant seeks relief from the following section(s) of the Zoning By-law: Section 6.2.3 (Semi-Detached Dwelling) “Minimum Rear Yard” – to permit a minimum rear yard setback of 4.5m whereas the By-law requires a minimum rear yard setback of 7.5m.

Representation

The Agent, William Heikoop and the Applicant, Rocco DiPaola were present.

Correspondence Received

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Niagara Region
5. NPCA

Applicants Comments

Mr. Heikoop stated the proposal creates more rear yard amenity space than what exists. He advised no rear yard neighbours would be impacted. Mr. Heikoop indicated that it is likely the variance requests are solely for the pinch point and may considerably exceed what will be executed. Mr. Heikoop stated the proposal meets the four minor variance tests under the Planning Act.

Public Comments

Brian Young and Angela MacRae expressed concern regarding the installation of a fence that will prohibit access to the woodlot, as well as concerns regarding drainage and erosion. Mr. Young asked how many stories are proposed.

Nora Peat expressed concern with drainage and destabilizing the slope. Ms. Peat asked the acreage of Parts 1 and 2 and how many dwellings would be permitted. The Chair referred to the measurements as shown on the severance sketch and clarified what the Committee must consider as part of their decision-making. Ms. Peat stated the setback is insufficient.

Mr. Heikoop identified the requirement to install a chain link fence and protect the woodland from human disturbances. He indicated the geotechnical report addresses the concern regarding erosion, soil disturbance, and load-bearing capacities. Mr. Heikoop stated there is no finalized design but anticipates the dwellings to be 2-storey. Mr. Heikoop stated the proposed dwellings meet the minimum lot area requirement and the rear yard amenity area is greater than what currently exists.

The Chair asked why variances are requested without a finalized building design. Mr. Heikoop responded that the applicant did not want to invest in a building design without provisional consent and stated that visual appearance has no bearing on the decision.

The Committee recessed for 10 minutes.

Ms. Leach, Secretary-Treasurer indicated she checked the clerks@pelham.ca email address at 6:40 pm and confirmed no e-mails have been received with regard to the subject application. Ms. Leach indicated the public comment portion of the application could be closed. The Committee agreed to close the public portion of the meeting and deliberate.

Moved By Don Rodbard
Seconded By Brenda Stan

That the public portion of the meeting be closed.

Carried

Member Comments

The Chair acknowledged that while ideally plans would be provided to illustrate the development there appears to be no significant adverse impact.

Moved By Brenda Stan
Seconded By Isaiah Banach

Application A6-2024P for relief of Section 6.2.3 (Semi-Detached Dwelling) “Minimum Rear Yard” – to permit a minimum rear yard setback of 5.75m whereas the By-law requires a minimum rear yard setback of 7.5m, is hereby: GRANTED

The above decision is based on the following reasons:

- 1. The variance is minor in nature as a functional private amenity area is still maintained on the site.**
- 2. The general purpose and intent of the Zoning By-Law is maintained.**
- 3. The intent of the Official Plan is maintained.**
- 4. The proposal is desirable for the appropriate development and/or use of the land because as it is not anticipated to have a significant negative impact on the streetscape or adjacent properties and appropriate private amenity area will be maintained.**
- 5. This application is granted without prejudice to any other application in the Town of Pelham.**
- 6. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.**

7. **The Applicant is aware that no sideyard walkways that impede sideyard swales are permitted and that the Town does not allow any service connections for Part 4 as it is not within the urban boundary.**

The above decision is subject to the following conditions:

1. **That all necessary building and demolition permits are obtained prior to construction commencing, to the satisfaction of the Chief Building Official.**

Prior to Building Permit:

1. **To the Satisfaction of the Director of Community Planning and Development**
 1. **That the approval of the minor variance is subject to Consent Files B4-2024P and B5-2024P obtaining final approval.**
2. **To the Satisfaction of the Director of Public Works**
 1. **That the Applicant submit a comprehensive lot grading and drainage plan demonstrating that stormwater runoff will not negatively impact nor rely upon neighboring properties, to the satisfaction of the Director of Public Works or his designate.**

Carried

Moved By Brenda Stan

Seconded By Isaiah Banach

Application A7-2024P for relief of Section 6.2.3 (Semi-Detached Dwelling) “Minimum Rear Yard” – to permit a minimum rear yard setback of 4.5m whereas the By-law requires a minimum rear yard setback of 7.5m, is hereby: GRANTED

The above decision is based on the following reasons:

1. **The variance is minor in nature as a functional private amenity area is still maintained on the site.**

2. The general purpose and intent of the Zoning By-Law is maintained.
3. The intent of the Official Plan is maintained.
4. The proposal is desirable for the appropriate development and/or use of the land because as it is not anticipated to have a significant negative impact on the streetscape or adjacent properties and appropriate private amenity area will be maintained.
5. This application is granted without prejudice to any other application in the Town of Pelham.
6. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.
7. The Applicant is aware that no sideyard walkways that impede sideyard swales are permitted and that the Town does not allow any service connections for Part 4 as it is not within the urban boundary.

The above decision is subject to the following conditions:

1. That all necessary building and demolition permits are obtained prior to construction commencing, to the satisfaction of the Chief Building Official.

Prior to Building Permit:

1. To the Satisfaction of the Director of Community Planning and Development
 1. That the approval of the minor variance is subject to Consent Files B4-2024P and B5-2024P obtaining final approval.
2. To the Satisfaction of the Director of Public Works
 1. That the Applicant submit a comprehensive lot grading and drainage plan demonstrating that stormwater runoff will not negatively impact nor rely upon neighboring properties, to the satisfaction of the Director of Public Works or his designate.

Carried

9.2 A7-2024P - 201 Canboro Road - Part 2

File A7-2024P was heard concurrently with A6-2024P. See A6-2024P for minutes and decisions.

10. Minutes for Approval

Moved By Isaiah Banach

Seconded By Don Rodbard

THAT the Committee of Adjustment minutes dated January 8, 2024 and March 4, 2024, be approved.

Carried

11. Adjournment

The hearing was adjourned at 6:43 pm.

Moved By Don Rodbard

Seconded By Isaiah Banach

BE IT RESOLVED THAT this Meeting of the Committee of Adjustment be adjourned until the next regular meeting scheduled for May 6, 2024, at 4:00 p.m.

Carried



Isaiah Banach, Chair



Sarah Leach, Secretary-Treasurer