

Committee of Adjustment**Minutes**

Meeting #: 05-2024
Date: Monday, May 6, 2024
Time: 4:00 pm
Location: Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

Members Present Brenda Stan
Isaiah Banach
John Cappa

Members Absent Colin McCann
Don Rodbard

Staff Present Sarah Leach
Andrew Edwards
Jodi Legros

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 John Cappa
Seconded By Brenda Stan

THAT the agenda for the May 6, 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 advised the Agent for B8-2024P has requested a deferral. Ms. Leach stated a revised notice of hearing will be circulated upon re-scheduling.

7. Applications for Minor Variance

7.1 A4-2024P(2) - 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:

Sections 3.1(c) On-Farm Diversified Uses - Requesting a 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

Representation

The Applicant Sherry Rusin was present.

Correspondence Received

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

Applicants Comments

No comments.

Public Comments

Ms. Leach, Secretary-Treasurer indicated she checked the clerks@pelham.ca email address at 4:08 pm and confirmed no e-mails have been received concerning 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 John Cappa

That the public portion of the meeting be closed.

Carried

Member Comments

The Chair stated that the proposal is appropriate given the approval of the related variances in April 2024.

Moved By Brenda Stan

Seconded By John Cappa

Application A4-2024P(2) for relief of Section 3.1(c) On-Farm Diversified Uses - Requesting a 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, 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 through the reduced setback to the OFDU. As well, 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 as 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 decision is subject to the following conditions:

To the Satisfaction of the Director of Community Planning and Development

1. Enter into a site plan agreement with the Town of Pelham.

Carried

7.2 A8-2024 - 928 Foss Road

Purpose of the Application

Application for relief is made, to facilitate the construction of a new building. The applicant seeks relief from the following section(s) of the Zoning By-law: Section 3.17(a) "Minimum Distance Separation Requirements" – to permit a setback of 4.57m to an interior lot line whereas Minimum Distance Separation II (MDS II) regulations require a setback of 13m; and Section 5.1.2 "Zone Requirements for Agricultural Use" – to permit an interior side yard setback of 4.57m whereas the By-law requires a minimum side yard setback of 20m.

Representation

The Agent, Kim Hessels and the Applicant, Mitch Dyck 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

A Member asked what was proposed. The Agent, Kim Hessels, stated the Applicant is seeking to build a second poultry barn, similar to the existing one. Ms. Hessels stated the proposed barn is sited to minimize impact. The Chair agreed the proposed location was appropriate.

Public Comments

Ms. Leach, Secretary-Treasurer indicated she checked the clerks@pelham.ca email address at 4:16 pm and confirmed no e-mails have been received concerning 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 John Cappa

That the public portion of the meeting be closed.

Carried

Member Comments

No further comments were provided.

Moved By John Cappa

Seconded By Brenda Stan

Application A8-2024P for relief of Section 3.17(a) “Minimum Distance Separation Requirements” – to permit a setback of 4.57m to an interior lot line whereas Minimum Distance Separation II (MDS II) regulations require a setback of 13m, is hereby: GRANTED

The above decision is based on the following reasons:

1. The variance is minor in nature as no adverse impacts to sensitive land uses are anticipated.
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 facilitates an expansion to an existing operation with the construction of a new barn.
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 5.1.2 “Zone Requirements for Agricultural Use” – to permit an interior side yard setback of 4.57m whereas the By-law requires a minimum side yard setback of 20m, is hereby: GRANTED

The above decision is based on the following reasons:

1. The variance is minor in nature as the proposed siting of the agricultural building reduces odour and visual impacts.
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 facilitates an expansion to an existing operation with the construction of a new barn.
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. That all necessary building permits are obtained prior to construction commencing, to the satisfaction of the Chief Building Official.**
- 2. That the following advisory clause be included with the Building Permit: "If deeply buried or previously undiscovered archaeological remains/resources are found during development activities on the subject lands, all activities must stop immediately. If the discovery is human remains, contact the police and coroner to secure the site. If the discovery is not human remains, the area must be secured to prevent site disturbance. The project proponent must then follow the steps outlined in the Niagara Region Archaeological Management Plan: Appendix C."**

Carried

7.3 A9-2024P - 2 Pelham Town Square

Purpose of the Application

Application for relief is made, to facilitate the construction of a 5-storey mixed-use building. The applicant seeks relief from the following section(s) of the Zoning By-law:

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 Section 4.1.1 "Minimum Parking Requirements" – to permit a minimum number of 1.35 parking spaces per 100m² gross leasable floor area "GLFA" (2 spaces), whereas the By-law requires a minimum of 3.25 parking spaces per 100m² GLFA (5 spaces); and 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 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 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 Section 8.3.3 “Town Square (TS) Zone Requirements” – to permit a maximum retail frontage of 28m, whereas the By-law allows 12m; and 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 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.

Representation

The Agent, Sydney DiTomasso was present.

Correspondence Received

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

Applicants Comments

The Agent, Sydney DiTomasso provided a presentation to further explain the application. A copy is on file with the Secretary-Treasurer.

A Member asked for an explanation on the building height variance request as the Zoning By-law requirement appears to be met. Ms. DiTomasso stated the request is precautionary in case the floor's thickness triggers the variance requirement during the permit phase.

The Chair asked if any existing policies relate to the replacement of existing buildings to be demolished. Andrew Edwards, Town Planner, confirmed there is not.

The Chair expressed pleasure in supporting the application.

Public Comments

Ms. Leach, Secretary-Treasurer indicated she checked the clerks@pelham.ca email address at 4:36 pm and confirmed no e-mails have been received concerning 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 John Cappa
Seconded By Brenda Stan

That the public portion of the meeting be closed.

Carried

Member Comments

A Member stated that it was clear the Town had done its due diligence with the analysis of the proposal.

Moved By Brenda Stan
Seconded By John Cappa

Application A9-2024P for relief of 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), is hereby: GRANTED

The above decision is based on the following reasons:

- 1. The variance is minor in nature as 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. In addition, the commercial parking spaces can be used as visitor spaces outside of business hours.**
- 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 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.

- 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 understands that the sidewalk on Pelham Town Square is to remain open at all times.**
- 8. The Applicant understands no contractor shall park in municipal parking lots and no construction hoarding shall occur on Town property.**

Application for relief of Section 4.1.1 “Minimum Parking Requirements” – to permit a minimum number of 1.35 parking spaces per 100m² gross leasable floor area “GLFA” (2 spaces), whereas the By-law requires a minimum of 3.25 parking spaces per 100m² GLFA (5 spaces), is hereby: GRANTED

The above decision is based on the following reasons:

- 1. The variance is minor in nature given the relatively small commercial GFA and the availability of public parking in the vicinity of the site (e.g., Town Hall parking 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 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.**
- 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 understands that the sidewalk on Pelham Town Square is to remain open at all times.
8. The Applicant understands no contractor shall park in municipal parking lots and no construction hoarding shall occur on Town property.

Application for relief of 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; is hereby: GRANTED;

The above decision is based on the following reasons:

1. The variance is minor in nature as it is greater than the minimum requirement of the Ontario Building Code.
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 as it will enable design flexibility and eliminate excessive height of the structure for parking areas.
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 understands that the sidewalk on Pelham Town Square is to remain open at all times.
8. The Applicant understands no contractor shall park in municipal parking lots and no construction hoarding shall occur on Town property.

Application for relief of 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), is hereby: GRANTED

The above decision is based on the following reasons:

- 1. The variance is minor in nature as within the context, the requirement for 0.8 short-term bicycle parking spaces is excessive.**
- 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 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.**
- 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 understands that the sidewalk on Pelham Town Square is to remain open at all times.**
- 8. The Applicant understands no contractor shall park in municipal parking lots and no construction hoarding shall occur on Town property.**

Application for relief of 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, is hereby: GRANTED

The above decision is based on the following reasons:

1. The variance is minor in nature as 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.
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 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.
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 understands that the sidewalk on Pelham Town Square is to remain open at all times.
8. The Applicant understands no contractor shall park in municipal parking lots and no construction hoarding shall occur on Town property.

Application for relief of Section 8.3.3 “Town Square (TS) Zone Requirements” – to permit a maximum retail frontage of 28m, whereas the By-law allows 12m, is hereby: GRANTED

The above decision is based on the following reasons:

1. The variance is minor in nature as 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.

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 will foster an active street presence, with the use of glazing and shallow setback to the property line.
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 understands that the sidewalk on Pelham Town Square is to remain open at all times.
8. The Applicant understands no contractor shall park in municipal parking lots and no construction hoarding shall occur on Town property.

Application for relief of 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, is hereby: GRANTED

The above decision is based on the following reasons:

1. The variance is minor in nature as the site building design will facilitate an active streetscape along Pelham Town Square. Higher storeys maintain a generous percentage of glazing.
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 as currently, the existing building does not have a high degree of glazing.
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 understands that the sidewalk on Pelham Town Square is to remain open at all times.
8. The Applicant understands no contractor shall park in municipal parking lots and no construction hoarding shall occur on Town property.

Application for relief of 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, is hereby: GRANTED

The above decision is based on the following reasons:

1. The variance is minor in nature as the increase in height is not anticipated to have significant impacts on neighbouring land uses and is generally in character with surrounding land uses. As well, shadowing is mostly contained to public and private parking spaces, as well as the public right of way.
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 increased height is not anticipated to result in a built form that is inappropriate for the lands, and will allow for design flexibility should changes to the grade be necessary.
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 understands that the sidewalk on Pelham Town Square is to remain open at all times.

8. **The Applicant understands no contractor shall park in municipal parking lots and no construction hoarding shall occur on Town property.**

The above decisions are subject to the following conditions:

1. **That all necessary building 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**
2. **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.**
3. **To the Satisfaction of the Director of Public Works**
4. **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.**
5. **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.**
6. **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.**
7. **That the applicant enter into an encroachment agreement with the Town to the satisfaction of the Director of Public Works.**

Carried

8. Applications for Consent

8.1 B8-2024P - Summersides Village, Port Robinson Road - Part of Lot 167, Part of Lots 17, 18, 19 on Plan 717, 2024-0095-Planning

File B8-2024P was deferred to a future meeting.

9. Minutes for Approval

Moved By Brenda Stan

Seconded By Isaiah Banach

THAT the Committee of Adjustment minutes dated April 02, 2024, be approved.

Carried

10. Adjournment

The hearing was adjourned at 4:40 pm.

Moved By John Cappa

Seconded By Brenda Stan

BE IT RESOLVED THAT this Meeting of the Committee of Adjustment be adjourned until the next regular meeting scheduled for June 3, 2024, at 4:00 p.m.

Carried

Isaiah Banach, Chair

Sarah Leach, Secretary-Treasurer