



**Community Planning and Development Department
Committee of Adjustment**
Tuesday, July 02, 2024

Consent Application: B12-2024P

Municipal Address: 690 Quaker Road

Legal Description: Lot 177, Part 1 on Plan 59R-16661 (Part 2 on Sketch)

Roll number: 2732 030 019 04200

Location of Lands and Purpose of Application:

The subject parcel, shown as Parts 1 and 2 on the attached sketch, is an interior parcel of land on the north side of Quaker Road, lying west of Line Avenue being Lot 177, Part 1 on Plan 59R-16661 in the Town of Pelham.

Application is made for consent to convey an easement in perpetuity over Part 2, to the benefit of 698 Quaker Road to permit access and maintenance to an existing accessory structure. Part 1 is to be retained for future residential use of property known municipally as 690 Quaker Road.

Council approved Zoning By-law Amendment application AM-11-2022 on May 6, 2022 which rezoned 690 Quaker Road from the Neighbourhood Commercial (NC) to a site-specific Residential Multiple 1 (RM1) zone and is subject to a Holding Symbol. As part of the site-specific zoning, the zone regulations permitted the neighbour's existing accessory building to encroach into the 1.5 metre planting strip. An easement is now sought to permit legal access to and encroachment of the accessory structure in perpetuity.

Applicable Planning Policies:

Planning Act

Section 53 (1) states a landowner may apply for a consent and the council may, subject to this section, give a consent if satisfied that a plan of subdivision is not necessary for the proper and orderly development of the municipality. The Committee of Adjustment has delegated authority to approve consents.

Provincial Policy Statement (PPS) (2020)

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

The subject lands are located in a "Settlement Area", the Fonthill Urban Settlement Area, according to the PPS. Policy 1.1.3.1 states that settlement areas shall be the focus of growth and development.

The easement will facilitate the neighbouring property owner legal access to the existing accessory structure in perpetuity. Settlement areas support densities and mixes of land use that allow the efficient use of land and infrastructure (1.1.3) including residential uses and accessory uses.

Planning staff are of the opinion the requested application for consent to establish an easement 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 parcel is located within a 'Settlement Area' according to the Growth Plan. The easement will facilitate the neighbouring property owner legal access to the existing accessory structure and will not offend any policies of the Growth Plan. The Growth Plan policies also support residential uses and accessory uses in a Settlement Area.

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

Niagara Region Official Plan (2022)

The lands are located in a Settlement Area and are designated Built-Up Area. Establishment of the easement does not offend any Regional Official Plan policies. Residential uses and accessory uses are permitted in the Settlement and Built-Up Areas. Planning staff are of the opinion the proposed consent conforms to the Regional Official Plan.

Town of Pelham Official Plan (2014)

The Town of Pelham Official Plan is the primary planning document that will direct the actions of the Town and shape growth that will support and emphasize Pelham's unique character, diversity, cultural heritage and protect our natural heritage

features. The property is designated Urban Living Area/Built Boundary in the Town of Pelham Official Plan. The residential accessory structure is a permitted use in this designation.

The Town's Official Plan policies related to consents do not explicitly speak to the granting of easements. Establishment of the easement does not offend any Official Plan policies. The residential accessory structure is a permitted use in the

As such, staff are of the opinion that the proposed easement conforms with the policies of the Official Plan.

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

The lands are zoned RM1-132 (H) according to the Town's Comprehensive Zoning By-law. The Holding symbol prohibits development on the subject property until acknowledgement from the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) confirming that all archaeological resource concerns on the subject property have met licensing and resource conservation requirements.

No new zoning permissions are necessary to facilitate the application as the site-specific zoning permits encroachment of the existing accessory building into the 1.5m width planting strip.

Agency and Public Comments:

On June 5, 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
 - Applicant should confirm that no existing utilities shall cross property line, relocation shall be the applicant's responsibility.
 - 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.
 - A comprehensive Lot Grading and Drainage Plan will be required, demonstrating overland flow routes, identifying swales and roof leader discharge locations, and showing neither parcel relies on the other for drainage, to the satisfaction of the Director of Public Works.

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

Planning Staff Comments:

The proposed easement is to facilitate an access to an existing accessory structure in favour of the neighbouring property owner. The proposed easement is intended to include access for maintenance purposes and is intended to be in perpetuity. Easements to ensure the necessary access can be provided when encroachments occur.

Planning Staff Recommendation:

Planning staff recommend that minor variance file B12/2024P **be approved** subject to the following condition(s):

THAT the applicant:

- 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.
- 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.
- Applicant should confirm that no existing utilities shall cross property line, relocation shall be the applicant's responsibility.
- A comprehensive Lot Grading and Drainage Plan will be required, demonstrating overland flow routes, identifying swales and roof leader discharge locations, and showing neither parcel relies on the other for drainage, to the satisfaction of the Director of Public Works.

Prepared and Submitted by:

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Recommended by:

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