



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

Tuesday, August 06, 2024

**Minor Variance Application: A16-2024P**

**Municipal Address: 25 Highway 20 East**  
**Legal Description: PLAN 25 PT BLK A NP717**  
**Roll number: 2732 020 003 14600**

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

The subject land is located on the north side of Highway 20 West, lying west of Station Street, being Part of Block A, Plan 717, in the Town of Pelham.

The subject property is located at 25 Highway 20 East in the Town of Pelham. There is an existing single detached dwelling on the property that will be converted to a hotel. The property is located on the north side of Highway 20 East. The property has a lot frontage of 22.87 m, a lot depth of 45.72 m and an area of 1,045.6 m<sup>2</sup>.

The subject land is zoned Main Street (MS) in accordance with Pelham Zoning By-law 4481 (2022), as amended. Application for relief is made, to facilitate an addition to and renovation of the existing dwelling to facilitate a 3-storey commercial hotel with 6 guest rooms (2 per floor) and a shared amenity space in the basement. The applicant seeks relief from the following section(s) of the Zoning By-law:

- a. **Section 8.2.3 (Zone Requirement) "Front Yard"** – to recognize the front wall occupying 68% of the lot frontage and setback 11.36m from the front lot line whereas the By-law requires the façade to occupy a minimum of 75% of the lot frontage and be built within 0-3.0m of the front lot line;
  - o Staff note the setback will be 9.48 metres after road widening.
- b. **Section 8.2.3 (Zone Requirement) "First Floor Window Height"** – to recognize an existing first floor window height of 0.71m whereas the By-law allows a first-floor window height of 0.3m to 0.6m; and
- c. **Section 8.2.3 (Zone Requirement) "First Floor Height"** – to permit an existing first floor height of 2.74m whereas the By-law requires a minimum first floor height of 4.5m;
- d. **Section 8.2.3 (Zone Requirement) "Angular Plane"** – 60-degree angular plane - to permit a 0.102m encroachment into the angular plane on the west side of the lot, whereas no encroachment into the angular plane is permitted.

The property is currently zoned Main Street (MS), which permits the proposed hotel, however there are several zoning deficiencies associated with the existing building, including the front yard setback, angular plane, first floor window height and first

floor height provisions.

There is an active site plan approval application for the development (SP-07-2023).

**Applicable Planning Policies:**

Planning Act, R.S.O. 1990, c.P.13

Section 45 (1) states that the Committee of Adjustment may authorize a minor variance to provisions of the Zoning By-law, in respect of the land, as in its opinion is (1) minor in nature, (2) objectively desirable for the appropriate development or use of the land, and the general intent and purpose of the (3) Zoning By-law and (4) Official Plan are maintained (the "Four Tests"). A discussion of the four tests is included below.

Provincial Policy Statement (PPS) (2020)

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.

Section 3 of the Planning Act requires that decisions affecting planning matters "shall be consistent with" policy statements issued under the Act. The PPS recognizes the diversity of Ontario and that local context is important. Policies are outcome-oriented, and some policies provide flexibility provided that provincial interests are upheld. PPS policies represent minimum standards.

The subject land is located in a 'Settlement Area' according to the PPS. Generally, settlement areas are to be the focus for new growth and development.

Staff are of the opinion the proposed variances are 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 proposed development of the site supports the primary objective of the Growth Plan to direct growth to settlement areas and to utilize existing municipal infrastructure. The proposed variances do not conflict with any policies of the Growth Plan. Accordingly, staff are of the opinion the proposed variances conform with the Growth Plan.

### Niagara Region Official Plan (2022)

The Region of Niagara adopted a new Official Plan on June 23, 2022. Approval was granted by the Province on November 7, 2022. The new Region of Niagara Official Plan ("NOP") provides the policy guidance for future development across the Region. The property is within a "Delineated Built-Up Area," being the settlement area of Fonthill. The intent of the NOP is maintained as the property is located in a Delineated Built-up Area, and will provide new employment opportunities and will utilize existing municipal infrastructure.

As part of the site plan application, the Region identified a road widening will be required along the Highway 20 frontage. A road widening of 1.88m width along the frontage of Regional Road 20 will be required to be granted gratuitously to the Region as a condition of future site plan approval.

Staff are of the opinion the variances conform with the Niagara Region Official Plan.

### Town of Pelham Official Plan (2014)

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

The subject lands are designated Downtown Transitional Area according to Schedule A1. The purpose of this designation is to be a transitional area for commercial and higher density residential development that contributes to the character and identity of the Downtown. The intent is that this area be designated for small-scale business, commercial and residential uses that could utilize existing buildings and be complementary to the mixed-use, pedestrian oriented focus of the Downtown. Inns are listed as a permitted use in the DTA designation.

Policy B1.3.4.3 sets forth the development criteria for this designation. Redevelopment and intensification proposals may be subject to a Zoning By-law Amendment and shall be subject to Site Plan Control. Prior to approving application for new development, Council should be satisfied that:

- a) The scale and appearance of the use is complementary to and does not detract from the residential character of the area;
  - ✓ The scale and appearance of the building is similar to the surrounding area and the overall building height will conform with the maximum building height permitted for residential uses. The proposed development will utilize the existing dwelling on the property. The addition will utilize the same architectural style (e.g. siding, etc.) of the existing dwelling, thus maintaining the character of the building.
- b) The building and/or the general appearance of the site will be improved through quality urban design;

- ✓ The general appearance of the site will be improved through the subject development, including landscaping and an upgraded building façade.
- c) Adequate on-site or off-site parking is provided;
  - ✓ On-site parking is provided for the development. Staff note there is no required parking for commercial uses in the Main Street zone. Each room will have access to one parking space.
- d) The Site Plan Agreement will address appropriate urban design matters including accessibility provision, exterior design features, massing and relationship to adjacent buildings as well as sustainable design elements located on municipal road allowances and land; and,
  - ✓ The applicant has submitted an application for site plan approval which has received conditional approval pending a number of items including approval of the minor variance application. A detailed review of the site plan has been conducted by Town staff and external commenting agencies. A Site Plan Agreement will be registered on title when the applicant has satisfied the conditions of approval and received final approval.
- e) The sign identifying the use is limited in size in accordance with the municipal Sign By-law.
  - ✓ Signage will be in accordance with the Town's sign by-law.

The development and urban design policies of Section B1.2.4.3 of the Official Plan apply. Generally speaking, the urban design policies encourage buildings to be built at or near the front lot line and encourage orienting buildings towards the street to enhance the streetscape.

B1.2.4.3(j) states: Preferred building materials include brick, wood, stone, glass, in-situ concrete and precast concrete. Building materials discouraged include vinyl siding, plastic, plywood, concrete block, metal siding and tinted or mirrored glass.

B.1.3.4.3(e) Design features such as pitched roof lines, awning and front porches are encouraged.

The proposed hotel will utilize the existing façade of the dwelling. This will maintain the residential character of the building and remain consistent with neighbouring dwellings and the surrounding area.

In making a determination of whether a variance is minor as required in Item Four, Committee will have more regard for the degree of impact which could result from the relief and less regard to the magnitude of numeric or absolute relief sought by the applicant.

Section E1.5 states in part:

*... applicants who request a minor variance should be prepared to demonstrate a need for the requested relief on the basis that the subject zoning provision*

*is not warranted in a particular circumstance, causes undue hardship, or is otherwise impossible to comply with.*

The applicant submitted a planning justification brief with the application which details the proposal's alignment with provincial and local policy, including a review of the four tests as outlined in the Planning Act. Staff agree with the conclusions of the report.

Based on the analysis above, staff are of the opinion the variance conforms with the Town's Official Plan.

#### Downtown Master Plan for Fenwick and Fonthill

The Town of Pelham's Master Plan for Downtown Fenwick and Fonthill was developed in 2014. It provides guidelines for new developments taking place in these areas to ensure they are well designed and considerate of the surrounding neighbourhood. New developments should maintain and enhance the character of both the public and private realms. The subject property is located in the Downtown Fonthill area, adjacent to the Historic Downtown Fonthill area and, therefore, is subject to the design guidelines of the Downtown Master Plan.

From a high level, this document encourages the "Town" character of Fonthill through promoting a mix of mixed-use buildings, larger employment and civic buildings, encourages a greater range of business types, and provides guidelines for the types of building form and articulation within the Downtown area.

Staff are in agreement with the analysis presented in the planning justification report.

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

The subject lands are zoned Main Street (MS) per Town of Pelham Comprehensive Zoning By-law 4481(2022). The minor variance application requests relief from:

- a. **Section 8.2.3 (Zone Requirement) "Front Yard"** – to recognize the front wall occupying 68% of the lot frontage and setback 11.36m from the front lot line whereas the By-law requires the façade to occupy a minimum of 75% of the lot frontage and be built within 0-3.0m of the front lot line;
  - o Staff note the setback will be 9.48 metres after road widening.
- b. **Section 8.2.3 (Zone Requirement) "First Floor Window Height"** – to recognize an existing first floor window height of 0.71m whereas the By-law allows a first-floor window height of 0.3m to 0.6m; and
- c. **Section 8.2.3 (Zone Requirement) "First Floor Height"** – to permit an existing first floor height of 2.74m whereas the By-law requires a minimum first floor height of 4.5m;
- d. **Section 8.2.3 (Zone Requirement) "Angular Plane"** – 60-degree angular plane - to permit a 0.102m encroachment into the angular plane on the west side of the lot, whereas no encroachment into the angular plane is permitted.

The Committee of Adjustment, in accordance with Section 45 (1) of the *Planning Act*, may authorize a minor variance from the provisions of the by-law, subject to the following considerations:

Minor Variance Test	Test Response/Explanation
<p><b>The variance is minor in nature.</b></p>	<p><b>Section 8.2.3 (Zone Requirement) "Front Yard"</b></p> <p>Yes, the variance is minor in nature. The proposed renovation/conversion of the existing dwelling to a hotel will utilize the existing footprint of the dwelling. The addition to the building will be a third storey addition that will not alter the existing front yard setback, or the percentage of the frontage occupied by the structure.</p> <p>Staff note the setback will be 9.48 metres after road widening taken by the Region. The location of the building is not changing.</p> <p>The existing location of the structure is not anticipated to detract from the streetscape. The landscaping and façade improvements will maintain a pedestrian oriented streetscape. As such, staff are of the opinion the variance is minor in nature.</p>
	<p><b>Section 8.2.3 (Zone Requirement) "First Floor Window Height"</b>  <b>Section 8.2.3 (Zone Requirement) "First Floor Height"</b></p> <p>Yes, the variances are minor in nature. The variances are required to recognize the existing conditions of the building. Permitting the conversion of the existing structure will maintain the character of the surrounding area. The existing window height and first floor height of the building are not anticipated to detract from the streetscape and will facilitate the conversion of the existing dwelling for commercial use.</p> <p>As such, staff are of the opinion the variance is minor in nature.</p>
	<p><b>Section 8.2.3 (Zone Requirement) "Angular Plane"</b></p> <p>Yes, the minor variance is minor in nature.</p> <p>Per the Zoning By-law, the angular plane is defined as a flat surface extending from a lot line and projecting over a lot, at a specified angle measured up from the horizontal, through which no part of a structure on the lot may penetrate.</p> <p>Given the pitch of the roof, a small portion of the roof (eavestrough) projects 0.102 metres into the angular plane. Staff note the structure is still under the permitted maximum height of the zoning by-law. No windows or living space encroach into the angular plane, and as such, issues of overlook are mitigated.</p> <p>Staff are of the opinion the variance is minor is nature.</p>
<p><b>The variance is desirable for the development or use of the land.</b></p>	<p><b>Section 8.2.3 (Zone Requirement) "Front Yard"</b></p> <p>Yes, the variance is desirable for the development or use of the land.</p>

	<p>The variance will allow the existing dwelling to be converted to a commercial use, which is an example of adaptive reuse. The proposed scale of the use (6 hotel rooms) is compatible with the surrounding area and is appropriate for the site. As such, staff are of the opinion the variance is desirable for the development or use of the land.</p>
	<p><b>Section 8.2.3 (Zone Requirement) "First Floor Window Height"</b>  <b>Section 8.2.3 (Zone Requirement) "First Floor Height"</b></p> <p>Yes, the variances are desirable for the development or use of the land. The variances will allow the existing dwelling to be converted to a commercial use, which is an example of adaptive reuse. The proposed use is compatible with the surrounding area and is appropriate for the site. As such, staff are of the opinion the variance is desirable for the development or use of the land.</p>
	<p><b>Section 8.2.3 (Zone Requirement) "Angular Plane"</b></p> <p>Yes, the variance is desirable for the development or use of the land. The proposal provides for a form of development that is generally compatible with the surrounding area. The minor encroachment into the angular plane is not anticipated to result in a built form that is inappropriate for the lands. The height of the structure will still comply with the regulation of the Zoning By-law. As such, the variance is considered desirable for the development or use of the land.</p>
<p><b>The variance maintains the general intent and purpose of the Zoning By-law.</b></p>	<p><b>Section 8.2.3 (Zone Requirement) "Front Yard"</b></p> <p>The By-law requires a building occupy 75% of the lot frontage and be built within 0-3.0m of the front lot line. The intent and purpose of this provision is to encourage building design that fosters a traditional commercial "main street" streetscape. The intent is to encourage active building facades, large display windows, pedestrian friendly streetscape. Shallow setbacks are intended to bring buildings closer to the street to encourage an active pedestrian-oriented streetscape in commercial areas. The intent of the provision requiring 75% of the frontage be occupied by buildings is to enhance streetscape continuity, promote walkability through a more engaging and active street frontage, and contribute to a defined urban form.</p> <p>The variance is being requested to recognize existing conditions of the dwelling. Granting the variance would allow for the adaptive reuse of the building to be used for a permitted commercial use. As such, it is the opinion of staff the variance maintains the general intent and purpose of the by-law.</p>



	<p><b>Section 8.2.3 (Zone Requirement) "First Floor Window Height"</b></p> <p>The By-law requires the first-floor window height be between 0.3m to 0.6m. Similar to the intent of the front yard requirements in the MS zone, the intent and purpose of first floor window height provision is to encourage a traditional main street building typology, with large display windows, and an active streetscape.</p> <p>The variance is being requested to recognize existing conditions of the dwelling. The development will convert the existing residential use into a commercial use along a commercial corridor within the Town's Downtown. Granting the variance would allow for the adaptive reuse of the building to be used for a permitted commercial use. As such, it is the opinion of staff the variance maintains the general intent and purpose of the by-law.</p> <hr/> <p><b>Section 8.2.3 (Zone Requirement) "First Floor Height"</b></p> <p>The By-law requires a minimum first floor height of 4.5m. The intent and purpose of this provision is to encourage good commercial design, including retail spaces that can accommodate a variety of commercial uses. enhance visibility and attractiveness of storefront, and to contribute to the overall streetscape and urban design. This is to align with the architectural characteristics of traditional commercial areas, contributing to the character of the Main Street area.</p> <p>The variance is being requested to recognize existing conditions of the dwelling. The development will convert the existing residential use into a commercial use along a commercial corridor within the Town's Downtown. Granting the variance would allow for the adaptive reuse of the building to be used for a permitted commercial use. As such, it is the opinion of staff the variance maintains the general intent and purpose of the by-law.</p> <hr/> <p><b>Section 8.2.3 (Zone Requirement) "Angular Plane"</b></p> <p>The By-law requires a 60° angular plane be established from 7.5m above the side yard lot line where abutting a residential use. The intent and purpose of this provision is for several reasons, including mitigation of shadow impacts on neighbouring residential uses, minimize overlook, to provide a transition in height between uses, encourage sensitive design, and to reduce to visual impact of new development.</p> <p>The intent and purpose of the zoning by-law is maintained, as the height of the structure is within the permitted height regulation of the by-law. No windows or living space is proposed to encroach into the angular plane, and as such overlook and privacy concerns are mitigated.</p>
<p><b>The variance maintains the general intent and purpose of the Official Plan.</b></p>	<p><b>All requested variances</b></p> <p>The variances maintain the general intent and purpose of the Official Plan. The subject lands are designated Downtown Transitional Area according to the Town's Official Plan. The purpose of this designation is to be a transitional area for commercial and higher density residential development that contributes to the character and identity of the Downtown. The intent is that this area be designated for small-scale business, commercial and residential uses that could utilize existing buildings and be complementary to the mixed-use, pedestrian oriented focus of the Downtown.</p>



	<p>The variances will facilitate compatible and appropriate development of the subject property. The redevelopment of the site will facilitate an inviting and pedestrian scaled commercial development that blends with adjacent residential uses. The variance does not conflict with any policies subject to fulfillment of the proposed conditions of approval. As such, the variances maintain the general intent and purpose of the Official Plan.</p> <p>As such, staff are of the opinion the variance maintains the general intent and purpose of the Official Plan.</p>
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**Agency and Public Comments:**

On June 17, 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
  - A building permit application will be required upon planning approval.
- Public Works Department
  - The applicant must submit a comprehensive Lot Grading & Drainage Plan demonstrating that the drainage neither relies, nor negatively impacts neighboring properties, and that all drainage will be contained within the respective lot, to the satisfaction of the Director of Public Works, or designate.
- Niagara Region
  - No objections. Regional comments and requirements will be incorporated in the future site plan agreement.

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

**Planning Staff Comments:**

As previously mentioned, the applicant has submitted an application for site plan approval. Staff provided detailed comments at the time of submission which the applicant is currently working through for a second submission. One of the conditions of the conditional approval for the site plan was to obtain minor variance approval for the zoning deficiencies that were identified.

The development will facilitate the conversion of the existing building into a commercial use along a commercial corridor within the Town’s Downtown Transitional Area. The majority of the variances are required to recognize existing conditions. The third storey addition to the structure necessitates a minor encroachment into the angular plane. However, the height of the structure is still within the permitted height of the zoning by-law and consistent with the maximum permitted height on the adjacent residential properties. The use is permitted per the zoning by-law, and in the opinion of staff is appropriate development for the site.

Staff note the front yard setback will be 9.48 metres after road widening, however the variance is considered to the existing property line.

Based on the analysis given in above sections, staff is of the opinion the proposal:

- makes efficient use of the land;
- will not result in overbuilding of the property;
- will not alter the view, sightlines or personal enjoyment of the subject property or any neighbouring properties; and,
- should not negatively impact the surrounding neighbourhood with regards to land use incompatibility, traffic, privacy and storm water runoff.

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

**Planning Staff Recommendation:**

Planning staff recommend that minor variance file A16/2024P **be approved** subject to the following condition(s):

**THAT** the applicant:

- 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.
- That all necessary building permits be acquired prior to construction commencing, to the satisfaction of the Chief Building Official.
- Enter into a site plan agreement to the satisfaction of the Director of Community Planning and Development.

**Prepared and Submitted by:**

Andrew Edwards, BES  
Planner

**Recommended by:**

Shannon Larocque, MCIP, RPP  
Manager of Planning