



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

Tuesday, August 06, 2024

Minor Variance Application: A19-2024P

Municipal Address: Proposed 73 William Street

Legal Description: Block 173, 59M-505

Roll number: 2732 030 020 16030

Nature and Extent of Relief/ Permission Applied for:

The subject land is located on the west side of Klager Avenue, lying north of William Street, being Block 173 on Plan 59M-505, in the Town of Pelham. The Block is known municipally as 73-79 William Street. Staff note the Block will be split into four (4) lots through an application for part lot control at a later date. It is noted that the variance is only necessary for the proposed 73 William Street, being the end unit.

The subject land is zoned Residential Multiple 1-96 (RM1-96) in accordance with Pelham Zoning By-law 4481(2022). Application for relief is made to facilitate the construction of a street townhouse dwelling.

The applicant seeks relief from the following section(s) of the Zoning By-law:

- i. **Section 10 Exceptions – RM1-96 - Section 3(d) “Minimum Exterior Side Yard”** – to permit a minimum exterior side yard setback for a covered porch of 1.6m whereas the By-law requires a minimum exterior side yard setback of 2.0m.

The applicant submitted building permits for the townhouse block in June of 2024. During the zoning review, it was identified that the covered porch on the western end unit (being 73 William Street) encroached into the required exterior side yard. As a result, the applicant has applied for a minor variance to permit the encroachment of the covered front porch into the exterior side yard.

Applicable Planning Policies:

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

Section 45 (1) states that the Committee of Adjustment may authorize minor variance provisions of the Zoning By-law, in respect of the land, as in its opinion is (1) minor in nature, (2) objectively desirable for the appropriate development or use of the land, and the general intent and purpose of the (3) Zoning By-law and (4)

Official Plan are maintained (the “Four Tests”). A discussion of the four tests is included below.

Provincial Policy Statement (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. Policy 1.1.3.1 states that settlement areas shall be the focus of growth and development. Policy 1.1.3.4 states appropriate development standards should be promoted which facilitate intensification, redevelopment and compact form, while avoiding or mitigating risks to public health and safety.

Staff are of the opinion that the proposed variance is consistent with the Provincial Policy Statement.

Growth Plan for the Greater Golden Horseshoe (2020)

This Plan informs decision-making regarding growth management and environmental protection in the Greater Golden Horseshoe (GGH). All decisions made after May 16, 2019, that affect a planning matter will conform to this Growth Plan, subject to any legislative or regulatory provisions providing otherwise. The policies of this Plan take precedence over the PPS to the extent of any conflict.

The subject lands are located within the Designated Greenfield Area per the Growth Plan. New development taking place in designated greenfield areas will be planned, designated, zoned and designed in a manner that: a) supports the achievement of complete communities; b) supports active transportation; and, c) encourages the integration and sustained viability of transit services.

Staff are of the opinion that the proposed variance conforms with the Growth Plan.

Niagara Region Official Plan (2022)

The Niagara Region Official Plan, 2022 provides the policy guidance for future development across the Region.

Policy 2.3.1.4 provides that new residential development and residential intensification are encouraged to be planned and designed to mitigate and adapt to the impacts of climate change by:

- a) facilitating compact built form; and
- b) incorporating sustainable housing construction materials or practices, green infrastructure, energy conservation standards, water efficient technologies, and low impact development.

Planning staff are of the opinion the proposed variance conforms with the Regional Official Plan.

Town of Pelham Official Plan (2014)

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

The Official Plan designates the subject lands as East Fonthill Secondary Plan Area – Low Density Residential. Policy B1.7.7.3 outlines the permitted uses and intentions of this designation, which are supportive of the development of lower density residential uses as part of a complete community. A townhouse dwelling is a permitted use in the EF – Low Density Residential designation.

Policy A2.3.2 Urban Character – stated objectives of this Plan include (among others):

- To enhance the urban areas as diverse, livable, safe, accessible and attractive communities.
- To ensure that new development areas are integrated into the fabric of the existing community in conformity with approved Secondary Plans.
- To encourage the development of neighbourhoods which are compact, pedestrian-friendly and provide a mix of housing types.
- To foster a sense of civic identity through a high standard of urban design in public and private development.

The property is located within the Saffron Meadows Phase 3 subdivision. The proposed dwelling is aligned with the Urban Character objectives of the Official Plan.

Staff are of the opinion that the proposed variance conforms with the Town of Pelham Official Plan.

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

The subject lands are zoned Residential Multiple 1-96 (RM1-96) per Town of Pelham Comprehensive Zoning By-law 4481. Under the regulations of the Zoning By-law the minor variance application requests relief from:

- i. **Section 10 Exceptions – RM1-96 - Section 3(d) "Minimum Exterior**

Side Yard” – to permit a minimum exterior side yard setback for a covered porch of 1.6m whereas the By-law requires a minimum exterior side yard setback of 2.0m.

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

Minor Variance Test	Test Response/Explanation
<p>The variance is minor in nature.</p>	<p>Yes, the variance is considered minor in nature. The porch encroaches 0.4 additional metres into the required exterior side yard.</p> <p>In the opinion of staff, 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, the streetscape, or substantially remove amenity space on the lot. No visibility impacts are anticipated for the corner of William and Arsenault, as the lot contains a daylight triangle which will remain unobstructed. Increasing the width of the covered porch closer to the exterior lot line will enhance the functionality of the amenity space.</p> <p>As such, staff are of the opinion the variance is minor in nature.</p>
<p>The variance is desirable for the development or use of the land.</p>	<p>Yes, the variance is desirable for the development or use of the land.</p> <p>The requested variance is not anticipated to have a negative impact on the character of the surrounding area. The variances would allow for appropriate development of a wraparound covered porch on a corner lot. The covered porch is not anticipated to have a significant visual impact on the streetscape. The construction would be in character of the area which includes residential uses and uses accessory thereto.</p> <p>As such, staff are of the opinion the variance is desirable for the development or use of the land.</p>
<p>The variance maintains the general intent and purpose of the Zoning By-law.</p>	<p>Yes, the variance maintains the general intent and purpose of the Zoning By-law.</p> <p>The intent of the exterior side yard setback is to maintain distance from the street to increase visibility for drivers, avoid over-development of lots, and allow for enhanced landscaping along corner lots.</p> <p>The porch maintains adequate visibility at the intersection of William and Arsenault, allows for adequate landscaping, and does not result in overdevelopment of the site. The reduction in exterior side yard setback is adequately from the front lot line. A large daylighting triangle exists on the property providing ample visibility at the corner of the street.</p> <p>As such, staff are of the opinion the variance maintains the general intent and purpose of the Zoning By-law.</p>

<p>The variance maintains the general intent and purpose of the Official Plan.</p>	<p>Yes, the variance maintains the general intent and purpose of the Official Plan.</p> <p>Staff are of the opinion that the requested variance is not considered to have significant impacts within the context of the Official Plan policies. The Official Plan states that development and redevelopment shall maintain and enhance the character and stability of residential neighbourhoods with regards to scale and density.</p> <p>The requested variances would not have a negative impact on the character of the surrounding area. The variance would allow for appropriate development on an existing lot. Further, the development would appear to comply with the Town’s Urban Design Guidelines.</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 July 10, 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
 - Please be advised that no sideyard walkways that impede sideyard swales shall be permitted.
 - 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:

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

Based on the analysis given in the 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 A19/2024P **be approved** subject to the following condition(s):

THAT the applicant:

- That all necessary building permits be acquired prior to construction commencing, to the satisfaction of the Chief Building Official.
- Submit a comprehensive Lot Grading & Drainage Plan demonstrating that the drainage neither relies, nor negatively impacts neighbouring properties, to the satisfaction of the Director of Public Works, or designate.

Prepared and Submitted by:

Andrew Edwards, BES
Planner

Recommended by:

Shannon Larocque, MCIP, RPP
Manager of Planning