



**Community Planning and Development Department  
Committee of Adjustment**  
Tuesday, August 06, 2024

**Consent Application: B14-2024P**

**Municipal Address: 28 Lorimer Street**  
**Legal Description: PLAN 27 LOT 60**  
**Roll number: 2732 020 003 07700**

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**Location of Lands and Purpose of Application:**

The subject parcel, shown as Part 1 on the attached sketch, has a frontage of 20.5m on the south side of Hurricane Road, lying west of Lorimer Street, being Lot 60 on Plan 719 in the Town of Pelham.

Application is made for consent to partial discharge of mortgage and consent to convey 420.82 square metres of land (Part 1), for the future construction of a single detached dwelling. Part 2 is to be retained for continued residential use of the dwelling known municipally as 28 Lorimer Street.

The parcel is located on the southwest corner of Lorimer Street and Hurricane Road. The parcel is rectangular in shape being 1,123.09 square metres in area, with 22.86 metres of frontage along Lorimer Street and 52.9 metres of frontage along Hurricane Road. The lands are generally flat in topography and currently contain a 1 storey brick dwelling and accessory structure. A framed shed in the rear yard of the existing lot is proposed to be removed to facilitate the consent.

Surrounding land uses include low to medium density residential dwellings.

**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.

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.

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 in a ‘Settlement Area’ according to the PPS. Policy 1.1.3.1 states that settlement areas shall be the focus of growth and their vitality and regeneration shall be promoted.

Policy 1.1.3.2 states that land use patterns within settlement areas shall be based on a range of densities and mix of land uses that efficiently use land and resources, are appropriate for and efficiently use infrastructure and public service facilities, minimize negative impacts to air quality and climate change and promote energy efficiency, prepare for the impacts of a changing climate, support active transportation and are transit and freight supportive.

Policy 1.1.3.3 provides for the promotion of intensification and redevelopment accommodating a significant supply and range of housing options where it can be accommodated considering the building stock, availability of existing and planned infrastructure and public service facilities required to accommodate the needs of the development.

Infill development is an acceptable form of intensification so long as new development is compatible in nature, is compact, and avoids adverse impacts to provincial interest, public health, safety, and the quality of the human environment. Planning staff are of the opinion the proposed consent is consistent with the PPS and promotes appropriate development standards that help facilitate compact form and intensification.

Planning staff are of the opinion the requested application for consent is consistent with the PPS.

#### Greenbelt Plan (2017)

The Greenbelt Plan designates the subject lands as ‘Settlement Areas Outside the Greenbelt.’ As such, the policies of the Greenbelt Plan do not apply to the subject lands.

#### 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 Growth Plan contains various guiding principles which are intended to guide decisions of how land is developed. The guiding principles include building compact, vibrant, and complete communities, managing and encouraging development in appropriate locations, and optimizing the use of existing infrastructure.

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Policy 2.2.2.1(a) requires a minimum of 50 percent of all new residential development to occur within the delineated built-up area.

Policy 2.2.2.3(b) encourages intensification generally throughout the built-up area and investment in services that will support intensification.

The proposed residential lot will help the Town to meet its delineated built boundary intensification targets. The existing water and sanitary sewer mains already extend along the frontage of the proposed lot but would be better utilized with additional building connections. As a result, the consent satisfies the policies of the Growth Plan.

#### Niagara Region Official Plan

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

The lands are designated Built-Up Area in the new Official Plan. Policy 2.2.2.5 requires 60% of all residential units occurring annually are to be in the Built-Up Areas and in Pelham, this translates into an annual intensification rate of 25% of new residential units within the Built-Up Area.

As the consent will contribute to the intensification rate, staff are of the opinion that the proposed consent conforms with the Regional Official Plan.

#### Town of Pelham Official Plan

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 local Official Plan designates the subject land as 'Urban Living Area/Built Boundary' on Schedule 'A1.'

Policy A2.2.2 Growth & Settlement – states that it is a goal of this Plan to encourage intensification and redevelopment within the Urban Area specifically in proximity to the Downtown.

Section A2.3.2 Urban Character sets out the objectives for the urban character of the Town. Objectives include to respect the character of existing development and ensure that all applications for development are physically compatible with the character of the surrounding neighbourhood, and to maintain and enhance the character and stability of existing and well-established residential neighbourhoods by ensuring that development and redevelopment is compatible with the scale and density of existing development. The proposal is supported by the Town Official Plan policies that encourage infill within existing built-up areas.

Policy A2.5.2 Infrastructure – stated objectives of this Plan include maintaining existing infrastructure in a manner that is cost effective and contributes to the quality of life of citizens.

Policy B1.1.3 states that in considering residential intensification proposals, the following criteria are applicable:

- a) Schedules A1 and A2 to this Plan identify a number of areas that may be good candidates for residential intensification. This does not preclude consideration for other sites in the Urban Living Area designation provided these sites abut arterial or collector roads or are located on a local road on a site that is no further than 100 metres from an intersection with an arterial or collector road;
  - The proposed new lot abuts Hurricane Road which is identified as a Collector Road.
- b) Intensification and redevelopment proposals are encouraged to achieve a unit density and housing type that is in keeping with the character of the density of the neighbourhood where it is proposed. Within the identified intensification areas identified on Schedules A1 and A2 the implementing Zoning By-law may establish minimum and maximum densities of between 10 and 25 units per hectare;
  - The surrounding neighbourhood is characterized by low to medium density residential dwellings, comprised of mainly one to two storey single detached dwellings. The proposed consent will facilitate the development of an additional single detached dwelling which is in keeping with the character of the surrounding neighbourhood.
- c) Residential intensification and redevelopment proposals located on lands which abut local roads shall maintain the unit density and unit type of the surrounding neighbourhood, but may through a Zoning By-law Amendment, increase the unit density by up to 25% of the existing gross density of lands located within 300 metres of the site, provided the resultant development will be characterized by quality design and landscaping, suitable building setbacks, and further that parking areas and traffic movements will not negatively impact the surrounding neighbourhood from the perspectives of safety or neighbourhood character;

- The property abuts Hurricane Road which is not a local Road. Not applicable.
- d) Notwithstanding items (b) and (c), the creation of new freehold or vacant condominium infill lots through the consent process, for ground-oriented detached dwellings, may be permitted provided the proposed lot and unit type is similar to and compatible with the established character of the street or neighbourhood where it is proposed. The Zoning By-law shall establish minimum lot area and frontages and minimum and/or maximum densities which are considered appropriate within the Urban Living Area designation;
- The proposed use is similar to the surrounding neighbourhood, being mostly comprised of single detached dwellings and medium density residential uses. The existing dwelling on Lorimer Street is to be retained. The severed lands are proposed to contain a single detached dwelling fronting Hurricane Road, consistent with the other residential uses and permissions allowed in the surrounding area.
- e) The creation of accessory apartments and in-law suites within residential neighbourhoods is considered to be an appropriate form of residential intensification. The establishment of accessory apartments shall occur in accordance with Policy B1.1.4 and Council may reduce the application fee for such amendments under the Town's Tariff of Fees By-law;
- Second dwelling units are permitted in single detached dwellings and accessory buildings subject to meeting the zoning by-law requirements for such uses. The proposed application is for a new single detached dwelling.
- f) The provision of affordable housing in intensification areas will be encouraged; and,
- The new lot will allow for one additional single detached dwelling to be constructed. The Town does have policies that permit second dwelling units in single detached dwellings and accessory buildings that if employed would help foster housing affordability.
- g) The Town will consider innovations for responsive processing of applications and amendments in the future including tools such as Conditional Zoning Amendments implementing a Development Permit system and the streamlining of processing concurrent development applications.
- Not applicable.

Policy D5.2.1 states that for any consent application, the Committee of Adjustment shall be satisfied that (among other things) the proposed lot:

- a) Fronts on and will be directly accessed by a public road that is maintained on a year round basis;
- Access will be provided from Lorimer Street for the retained lot and Hurricane Road for the proposed lot, which are both public roads.
- b) Will not cause a traffic hazard as a result of its location on a curve or a hill;
- No traffic hazards are anticipated from the proposed consent. Public Works did not identify any concerns in this regard.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
- The proposed consent for residential use meets the requirements of the R1 zone.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
- Yes, municipal services exist on Hurricane Road.
- e) Will not have a negative impact on the drainage patterns in the area;
- A Lot Grading Plan will be required as a condition of approval demonstrating that drainage will be maintained on-site and not negatively impact on adjacent properties.
- f) Will not affect the development ability of the remainder of the lands, if they are designated for development by this Plan;
- N/A. The retained lot will be retained for existing residential use.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
- No environmentally sensitive features are on the property.
- h) Conforms with Regional lot creation policy as articulated in the Regional Policy Plan; and,
- Yes.
- i) Complies with the appropriate provincial Minimum Distance Separation Formulae, where applicable.
- N/A.

The Town's Cultural Heritage Master Plan identifies the subject lands as having composite potential for deeply buried archaeological resources. The majority of the property as it currently exists has experienced recent significant, intrusive or extensive ground disturbance as defined by the Province in relation to the construction of the dwelling and the in-ground swimming pool. As such, the requirement for an archaeological assessment has been waived.

Town Planning staff are of the opinion the proposed severance conforms to the local Official Plan as it helps enable intensification within an existing neighbourhood and does not conflict with any policies subject to the satisfaction of the conditions of approval.

#### Pelham Zoning By-law No. 4481 (2022), as amended

The subject lands are zoned Residential 1 (R1) in accordance with Zoning By-law No. 4481 (2022). Both the lands to be severed and the lands to be retained are in compliance with the standards of the Zoning By-law.

#### **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
  - Any future proposed construction will require a building permit application.
- 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.
  - Please be advised that no sideyard walkways that impede sideyard swales shall be permitted.
  - 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.
  - 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.
  - 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.

- Part 1 is to be individually serviced with its own sanitary and water connections and constructed in accordance with Town of Pelham Engineering Standards. Installation of any services will require a Temporary Works Permit obtained through the Public Works Department. 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.
- That the applicant provide a Tree preservation plan (include trees on lot grading plan) and that the applicant provide a cash in lieu should the applicant remove Town owned tree per Town tree policy.
- Functional Servicing Report including a full stormwater management strategy.

Two (2) public comments have been received at the time of writing this report which are summarized below:

Patricia Tomczyk

- Objects to the proposal; Expressed concern with the potential of the proposal to exacerbate flooding and drainage concerns in the area; Concern with the aging storm sewer infrastructure along Hurricane Road and its adequacy to handle the additional runoff; Concern with tree removal and loss of tree canopy; Expressed concern with vacancy of existing dwellings and new development in the area; Expressed concern with the accuracy of the severance sketch; Questions the feasibility of the driveway and garage layout in the proposed drawing; Highlights the lack of details in the drawing regarding property coverage.

Kathryn Silkiewicz

- Objects to the proposal; Expressed concerns with privacy; Concerned with the removal of trees on soil stability and drainage; Concern with loss of fencing; Raised adverse possession rights.

### **Planning Staff Comments:**

A pre-consultation meeting was held with the applicant(s) of the property and staff from the Town, and Niagara Region Planning & Development Services on June 2, 2022, to discuss the subject application.

Planning staff have reviewed the Planning Justification Brief as well as reviewed all agency and public correspondence submitted to date and offer the following for the Committee's consideration.



The pre-consultation notes for the project indicated that efforts should be made to retain the street trees when considering driveway location. The severance sketch submitted with the applicant shows the location of the existing trees along the northern property line. The driveway has been shown in a location that would appear to not necessitate tree removal. However, a tree preservation plan is recommended as a condition of approval which shall identify trees to be retained and remain undisrupted.

With respect to the comments raised by the public, the following responses are given.

With respect to concerns related to flooding and drainage, a lot grading and drainage plan is required. The plan will ensure that the stormwater from the proposed lot will be managed on site. A condition is being recommended that requires the proponent to prepare a grading and drainage plan to the satisfaction of the Director of Public Works that demonstrates that appropriate on-site drainage can occur without adversely impacting adjacent properties. Public Works has also requested a stormwater management report be prepared to demonstrate the storm sewer along Hurricane Road has sufficient capacity to handle the additional runoff.

Staff understand the concerns with tree loss. As a condition of approval, staff are requesting the applicant prepare a tree preservation plan which shall indicate which trees are proposed for removal and identify methods for preservation of remaining trees along the Hurricane Road frontage. Staff note the mature trees along the southern property line of the lot would appear to be contained within the property to the south and will continue to provide a buffer to the adjacent residential use.

With respect to the comment regarding housing availability and vacancy, this is a function of market demand. The proposal, if approved would permit the creation of an additional residential lot which will contribute to housing choice. A smaller lot may lend to a more affordable product.

With respect to the lot coverage comment made, the proposal will be required to comply with the maximum 50% lot coverage requirement of the R1 zone. The severance sketch does not illustrate the location of the dwelling, rather it shows a potential building envelope of ~169.5 m<sup>2</sup> that meets the setbacks of the R1 zone. A dwelling can be comfortably sited in this envelope while still maintaining adequate amenity area and setbacks. It is unclear if a garage is proposed. However, the driveway maintains adequate dimensions to meet the required parking spaces. Staff note the drawing has been prepared and signed by a licensed Ontario Land Surveyor

It is not anticipated the new lot will result in privacy impacts or overlook impacts over and above what is normal for a residential use. The dwelling will maintain the required setbacks from proposed lot lines. In addition, the rear yard lot line is proposed along the neighbouring property to the south, which requires a minimum setback of 7.5 metres. Residential amenity space will continue to back on to rear yard residential amenity space. Any future dwelling will be required to meet the height requirement of the Zoning By-law to ensure compatibility.

With respect to the loss of fencing, this is a matter between neighbouring landowners. There is no requirement for a property to be fenced, and the removal of the frame shed is permitted. As such, the Town does not have the authority nor the ability to intervene in a civil matter. It is suggested the issue is addressed between the involved parties.

The claim respecting long-term use of the neighbouring property is also a civil matter between two property owners.

The proposal is generally supported by the Town Official Plan policies that encourage infill within existing built-up areas. This supports the long-term public interest by minimizing the impact of sprawl on agricultural lands while supporting re-investment in existing communities to maintain their stability and vibrancy, providing for an efficient use of infrastructure and land, and contributing to the development of compact communities that foster walkability and a sense of place.

The proposal, if approved would permit the creation of an additional residential lot in a neighbourhood comprised of primarily single detached dwelling units. Staff do not anticipate any issues in terms of land use compatibility with the surrounding residential uses. Adequate parking and private amenity areas are provided for both the retained and created lots.

Based on the analysis in the sections above, Planning staff are of the opinion that the proposed consent is consistent with the PPS, and conforms to Provincial, Regional and local Plans. The resulting parcel will comply with applicable Zoning By-law regulations and upon satisfaction of the conditions of approval is not anticipated to negatively impact the surrounding neighbourhood with respect to traffic, privacy, and stormwater management.

### **Planning Staff Recommendation:**

Planning staff recommend that minor variance file B14/2024P **be approved** subject to the following condition(s):

**THAT** the applicant:

- 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.
- 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.
- 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.

- Part 1 is to be individually serviced with its own sanitary and water connections and constructed in accordance with Town of Pelham Engineering Standards. Installation of any services will require a Temporary Works Permit obtained through the Public Works Department. 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.
- That the applicant provide a tree preservation plan (including trees on lot grading plan) and that the applicant provide a cash in lieu should the applicant remove Town owned tree per Town tree policy.
- That the applicant provide a Functional Servicing Report including a full stormwater management strategy.
- Provide the Secretary-Treasurer with a registerable 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.
- Provide 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.
- 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.

**Prepared and Submitted by:**

Andrew Edwards, BES  
Planner

**Recommended by:**

Shannon Larocque, MCIP, RPP  
Manager of Planning