



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

Consent Application: B13-2024P

Municipal Address: 764 Canboro Road

Legal Description: PLAN 16 PT LOT 9 NP 703

Roll number: 2732 010 015 05100

Location of Lands and Purpose of Application:

The subject parcel, shown as Part 1 on the attached sketch, has a frontage of 12.19m on the south side of Canboro Road, lying north of Welland Road, being Part Lot 9, Plan 703, in the Town of Pelham.

Application is made for consent to partial discharge of mortgage and consent to convey 1,052 square metres of land (Part 1), for the future construction of a semi-detached dwelling. Part 2 is to be retained for future construction of a semi-detached dwelling.

The existing parcel is located on the south side of Canboro Road approximately 220 metres east of the intersection of Maple and Canboro. The parcel has a frontage of 24.38 metres along Canboro Road, and is approximately 2,158 m² in lot area. The lands currently contain a dwelling and accessory buildings. The lands generally slope towards the rear of the property.

The proposed development on the subject lands consists of one set of two storey semi-detached dwellings with an accessory structure containing a garage on the lower level and a secondary dwelling unit on the upper level. The consent application will allow the semi-detached units to be in separate ownership.

This application is being considered concurrently with Minor Variance Files A14-2024P and A15-2024P.

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’ (Fenwick) 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 that 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 additional semi-detached lot will contribute to the delineated built boundary intensification targets, add a new housing option for a complete community and make use of existing water and sanitary sewer mains which already extend along the frontage of the property.

Niagara Region Official Plan

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

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

The proposed semi-detached lot will contribute toward the intensification rate within the Built-Up Area. 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 Canboro Road which is identified as an Arterial 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. Further to the west are commercial uses. The proposed consent will facilitate the development of a semi-detached which is a permitted use in the R1 zone and 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;

- Canboro Road 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 residential uses. The lands are proposed to contain a semi-detached dwelling, consistent with the other residential uses and permissions allowed in the surrounding area and in the Zoning By-law.
- 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 semi-detached dwellings and accessory buildings subject to meeting the zoning by-law requirements for such uses.
- f) The provision of affordable housing in intensification areas will be encouraged; and,
- The new lot will allow for an additional dwelling to be constructed. The Town does have policies that permit second dwelling units in single and semi-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 Canboro Road for both the severed and retained lots, which is a public road.
- 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. Town Public Works staff did not raise 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 is in keeping with the intent of the Zoning By-law. No zoning relief as a result of the consent is required from the regulations of the R1 zone for the semi-detached dwellings. A related variance is sought for an accessory structure.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
 - Municipal services are available on Canboro 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 adjacent properties to the satisfaction of the Director of Public Works.
- 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. Accordingly, an archaeological assessment was identified as a complete application requirement. The applicant submitted an archaeological assessment along with the application, as well as the Ministry Clearance letter. No artifacts or other archaeological resources were identified during the Stage 2 archaeological assessment.

Town Planning staff are of the opinion the proposed severance conforms to the local Official Plan as it facilitates intensification within an existing neighbourhood, allows separate ownership of the units but does not change built form and does not conflict with any policies subject to the satisfaction of the conditions of approval.

Agency and Public Comments:

On July 3, 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 Engineering Department has no comments or concerns in relation to the severance proposed. However, the Engineering Department has not reviewed or approved the engineering grading and drainage plan submitted as part of the package.
 - Proposed Lots are 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.
- Bell Canada
 - Subsequent to review of the Severance Application by our local Engineering Department, it has been identified that Bell Canada will require a transfer of easement over these lands to protect existing aerial facilities, supply service to the properties, and to maintain service in the area. According to our records, Bell's aerial cable runs 70 M South of Canboro Rd as identified in the sketch provided.

- Bell Canada would like to confirm that a blanket easement over the lands or a 3.0m wide corridor to be measured 1.5m on either side of the aerial cable, then to extend from the pole to a minimum of 1.0m past any anchor installation to be measured 0.5m on either side of the guy, as can be accommodated, would satisfy our needs.
- Since the easement is necessary in order to provide and maintain service to this area, all costs associated with this transaction is the responsibility of the landowner. Compensation should be set to the nominal amount of \$2.00 for the acquisition of these rights. Additionally, Bell Canada requires separate, registered postponements for any mortgages and certification of title.
- We hope this proposal meets with your approval and request a copy of the Committee of Adjustments decision. We look forward to the owners' Solicitor contacting us with a draft reference plan and accompanying draft easement and LTTS documents for our approval prior to registration, along with an acknowledgement and direction for our execution.
- Niagara Region:
 - In accordance with NOP Policy 6.4.2.6, staff has reviewed the *Stage 1 & 2 Archaeological Assessment* prepared by Archaeological Consultants Canada (dated May 8, 2024). No archaeological resources were identified during the Stage 2 assessment and, therefore, no further archaeological assessment of the property was recommended. Staff requests that an acceptance letter from the Ministry of Citizenship and Multiculturalism be circulated to the Region prior to the issuance of a building permit.
 - The following archaeological advisory clause is provided for the applicant's information:
 - *"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."*

One (1) public comment was received at the time of writing this report and is summarized below:

Bill and Ann Van Lochem

- Expressed concern with safety along Canboro Road; Expressed concern with introducing semi-detached dwelling into a neighbourhood of primarily single detached dwellings.

Planning Staff Comments:

As noted earlier in this report, the Province and the Region of Niagara through their Official Plan have set intensification targets for the Town of 25% annually. This is to be achieved through a mix of new development on designated lands and through infill and intensification opportunities within the existing built-up area.

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.

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 upon the granting of the concurrent minor variance applications and 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 B13/2024P **be approved** subject to the following condition(s):

THAT the applicant:

- 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.
- Lots are to be individually serviced with 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.
- Submit a comprehensive Lot Grading & Drainage Plan for all parcels demonstrating that the drainage neither relies, nor negatively impacts neighbouring properties, and that all drainage will be contained within the respective lots, to the satisfaction of the Director of Public Works, or designate.
- That the Applicant confirm no existing utilities cross the proposed new property line. Should any services cross this new property line nor rely on adjacent properties.

- 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.
- 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.
- That the Owner provide a written agreement that they will grant Bell Canada any easements that may be required, which may include a blanket easement, for communication/telecommunication infrastructure. In the event of any conflict with existing Bell Canada facilities or easements, the Owner shall be responsible for the relocation of such facilities or easements.

Prepared and Submitted by:

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Recommended by:

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