



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

Tuesday, August 06, 2024

**Minor Variance Application: A14-2024P & A15-2024P**

**Municipal Address: 764 Canboro Road**

**Legal Description: PLAN 16 PT LOT 9 NP 703**

**Roll number: 2732 010 015 05100**

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

The subject parcel, shown as Parts 1 and 2 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.

The subject land is zoned Residential 1 (R1) in accordance with Pelham Zoning By-law 4481(2022), as amended. Application for relief is made, to facilitate the construction of an attached accessory structure (detached garage and second dwelling units).

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

- a) **Section 3.28.1(b)(ix) "Second Dwelling Units – Urban Area"** – to permit an interior side yard setback for an accessory structure of 0m whereas the By-law requires 1m.

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 m<sup>2</sup> 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 a detached accessory structure containing a garage on the lower level and a secondary dwelling unit on the upper level. The variance pertains to the detached accessory structure. The Zoning By-law requires a minimum interior side yard setback of 1 metre for accessory structures. The property owner has submitted a concurrent application for consent which result in the division of the accessory structure along the centre wall, similar to a semi-detached dwelling. The Town's Zoning By-law does not contemplate instances where accessory structures on two separate lots have a shared wall. As such, zoning relief is required.

This application is being considered concurrently with Consent File B13-2024P.

## **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 for 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 the 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 Delineated Built Boundary per the Growth Plan which supports residential uses. Staff are of the opinion that the proposed variance conforms with the Growth Plan.

### Niagara Region Official Plan (2022)

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

The Region of Niagara 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 confirms with the Regional Official Plan as it will facilitate compact built form.

#### 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 Urban Living Area / Built Boundary according to the Town’s Official Plan. The purpose of the Urban Living Area designation is to recognize the existing residential areas of Fonthill and Fenwick and promote the efficient use of existing and planned infrastructure by creating the opportunity for various forms of residential intensification, where appropriate. All types of residential uses are permitted in the ‘Urban Living Area/Built Boundary’ 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.

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 provided a cover letter explaining why the shared wall on the accessory structure is desirable. Reducing the interior side yard setback will enhance the look as it creates the guise of a single building that takes on the look of a barn. Allowing a reduction to the interior side yard setback still maintains the original goals of the by-law, which is to maintain a functional lot and achieve appropriate spatial separation from abutting land uses.

Planning staff are of the opinion the proposed variance conforms with the policies of the Town of Pelham’s Official Plan.

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

The subject lands are zoned Residential 1 (R1) per Town of Pelham Comprehensive Zoning By-law 4481. Under the regulations of the Zoning By-law the minor variance application requests relief from:

- a) **Section 3.28.1(b)(ix) “Second Dwelling Units – Urban Area”** – to permit an interior side yard setback for an accessory structure of 0m whereas the By-law requires 1m.

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>Yes, the variance is considered minor in nature.</p> <p>The structure requiring relief is a detached accessory structure containing a garage on the main floor, and a total of two second dwelling units on the upper level. Upon finalization of the consent, both parts will have one second dwelling unit and garage space on the ground floor.</p> <p>Given the slope of the property towards to the rear of the property, the structure is not anticipated to have a significant visual impact from the public realm. The structure will appear as one building.</p> <p>Staff note the Zoning By-law does not currently contemplate instances where accessory buildings are attached along a common property line. This instance is not uncommon for semi-detached and townhouse dwelling developments with detached garages and is present in other semi-detached and townhouse developments with site specific zoning across the Town.</p> <p>The requested variance is not anticipated to have negative impacts on the streetscape or adjacent properties. The proposed development is generally compatible with the surrounding area.</p> <p>As such, staff are of the opinion the variance is minor in nature.</p>

<p><b>The variance is desirable for the development or use of the land.</b></p>	<p>Yes, the variance is desirable for the development or use of the land.</p> <p>The variance will facilitate appropriate development for the site. The requested variance is desirable as it is not anticipated to result in negative impacts on adjacent properties, will facilitate the construction of a detached garage and SDU on each future lot which is permitted in the zoning by-law, will not alter the function of the subject property, and is not anticipated to alter the streetscape in a significant way.</p> <p>As such, staff are of the opinion the variance is 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>Yes, the variance maintains the general intent and purpose of the Zoning By-law.</p> <p>The intent of the minimum interior side yard setbacks for accessory structures is to ensure adequate separation from neighbouring properties is maintained, there remains adequate space for drainage and access, and to limit the visual impact of accessory buildings. Given the development proposes a semi-detached dwelling on the site, a combined accessory structure for the site is considered appropriate. No objections were raised by Town Public Works about the side yard setback with respect to drainage. The proposed development maintains the intent of the by-law to maintain a functional lot and achieve appropriate spatial separation from abutting land uses.</p> <p>As such, staff are of the opinion the variance maintains the general intent and purpose of the Zoning By-law.</p>
<p><b>The variance maintains the general intent and purpose of the Official Plan.</b></p>	<p>Yes, the variance maintains the general intent and purpose of the Official Plan.</p> <p>The surrounding neighbourhood is generally characterized by one to two storey single detached dwellings. The Official Plan states that development and redevelopment shall maintain and enhance the character and stability of existing and well-established residential neighbourhoods with regards to scale and density.</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 proposed detached garage/Second Dwelling Unit is generally compatible with and generally in keeping with the low-density residential character of the neighbourhood.</p> <p>The proposal is generally consistent in built form, scale, and massing with existing development and the character of the area.</p> <p>As such, staff are of the opinion the variance maintains the general intent and purpose of the Official Plan.</p>

### 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 side yard setbacks 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.

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

### **Planning Staff Comments:**

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 files A14/2024P and A15/2024P **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.

- That the approval of the minor variances are subject to Consent File B13/2023P obtaining final approval.

**Prepared and Submitted by:**

Andrew Edwards, BES  
Planner

**Recommended by:**

Shannon Larocque, MCIP, RPP  
Manager of Planning