

Meeting #: CoA-07/2017
Date: Tuesday, July 11, 2017
Time: 4:00 pm
Location: Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

Members Present James Federico
Brian DiMartile
Donald Cook
Members Absent Wayne Lockey
John Klassen
Staff Present Nancy Bozzato
Judy Sheppard

1. **Attendance**
2. **Call to Order, Declaration of Quorum and Introduction of Committee and Staff**

Noting that a quorum was present, Chair James Federico called the meeting to order at approximately 4:14 pm. The Chair read the opening remarks to inform those present on the meeting protocols and he introduced the hearing panel and members of staff present.

3. **Disclosure of Pecuniary Interest and General Nature Thereof**

There were no pecuniary interests disclosed by any of the members present.

4. **Requests for Withdrawal or Adjournment**

There were no requests received for withdrawals or adjournments.

5. **Applications for Minor Variance**

5.1 File A22/2017P - Steven & Anna Groen

Purpose of Application

The subject land is zoned 'Agricultural' (A) in accordance with Pelham Zoning By-law 1136(1987), as amended. The minor variance application requests relief from:

Section 7.4 (a) "Minimum Lot Frontage" to permit a frontage of 5.72

metres whereas 46 metres is required. The owner will acquire Parts 5 and 7, fronting on Cream Street as part of concurrent consent applications, together with rights-of-way for ingress and egress over Parts 2, 3, and 4. (B18/2017P, B19/2017P and B20/2017P).

Representation

Steven Groen, registered owner, appeared on behalf of the application.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Building Department
3. Town of Pelham Public Works Department
4. Town of Pelham Fire Department
5. NPCA Comments

Applicant's Comments

No comments.

Public Comments

No comments.

Members Comments

No comments.

Moved By Donald Cook

Seconded By Brian DiMartile

Application for relief of Section 7.4(a) – Minimum Lot Frontage is requested to permit a frontage of 5.72 metres whereas 46 metres is required, is hereby: GRANTED

The above decision is based on the following reasons:

- 1. The variance is minor in nature in that the lands are unaltered and no negative impacts on adjacent uses are anticipated.**
- 2. The general purpose and intent of the Zoning By-Law is maintained in that the frontage reduction is less than what is required but is satisfactory for driveway access which is accomplished through reciprocal rights-of-ways.**
- 3. The intent of the Official Plan is maintained in that it will help correct a previous unfortunate circumstance by reconfiguring open space to facilitate a shared road access to Cream Street.**

4. The proposal is desirable for the appropriate development and/or use of the land in that it will recognize the frontage shortfall and give legal status to develop a land locked parcel.
5. This application is granted without prejudice to any other application in the Town of Pelham.
6. No objections were received from commenting agencies or abutting property owners.
7. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.

The above decision is subject to the following conditions:

1. That concurrent Consent Applications B18/2017P, B19/2017P, B20/2017P and Minor Variance Application A23/2017P obtain final approval.

Carried

5.2 File A23/2017P - Trevor & Kristine Sider

Purpose of Application

The subject land is zoned Agricultural "A" in accordance with Pelham Zoning By-law 1136(1987), as amended. The minor variance application requests relief from Section 7.4(a) - Minimum Lot Frontage to permit a frontage of 5.72 metres whereas 46 metres is required. The owner will acquire Part 4, fronting on Cream Street, as part of concurrent consent applications, together with rights-of-way for ingress and egress over Parts 2, 3, and 5 (B18/2017P, B19/2017P and B20/2017P).

Representation

Trevor Sider, registered owner, appeared on behalf of this application.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Building Department
3. Town of Pelham Public Works Department
4. Town of Pelham Fire Department
5. NPCA Comments

Applicant's comments
No comments.

Public comments
No comments.

Members comments
No comments.

**Moved By Donald Cook
Seconded By Brian DiMartile
Application for relief of Section 7.4(a) – Minimum Lot Frontage is
requested to permit a frontage of 5.72 metres whereas 46 metres is
required, is hereby: GRANTED**

The above decision is based on the following reasons:

- 1. The variance is minor in nature in that the lands are unaltered and no negative impacts on adjacent uses are anticipated.**
- 2. The general purpose and intent of the Zoning By-Law is maintained in that the frontage reduction is less than what is required but is satisfactory for driveway access which is accomplished through reciprocal rights-of-ways.**
- 3. The intent of the Official Plan is maintained in that it will help correct a previous unfortunate circumstance by reconfiguring open space to facilitate a shared road access to Cream Street.**
- 4. The proposal is desirable for the appropriate development and/or use of the land in that it will recognize the frontage shortfall and give legal status to develop a land locked parcel, and increases the value of the land.**
- 5. This application is granted without prejudice to any other application in the Town of Pelham.**
- 6. No objections were received from commenting agencies or abutting property owners.**
- 7. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.**

The above decision is subject to the following condition:

- 1. That concurrent Consent Applications B18/2017P, B19/2017P, B20/2017P and Minor Variance Application A22/2017P obtain final approval.**

5.3 File A24/2017P - Joseph Pranter, Alexander Louws, and Heather Pranter

Purpose of Application

The subject land is zoned Agricultural (A) in accordance with Pelham Zoning By-law 1136(1987), as amended. The minor variance application requests relief from:

Section 7.4(e) "Minimum Exterior Side Yard" seeking 7.8m whereas 8m is required

Section 7.4(f) "Minimum Side Yard" seeking 6.4m whereas 9m is required

Section 7.4(g) "Minimum Rear Yard" seeking 1.82m whereas 15m is required.

Representation

Alexander Louws, registered owner, appeared on behalf of this application.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Building Department
3. Town of Pelham Public Works Department
4. Town of Pelham Fire & By-law Services
5. Niagara Peninsula Conservation Authority
6. Niagara Region

Applicant's comments

No comments.

Public comments

No comments.

Members comments

No comments.

Moved By Brian DiMartile

Seconded By Donald Cook

Application for relief of the following:

Section 7.4(e) – Minimum Exterior Side Yard – seeking 7.8 metres whereas 8 metres is required is hereby: GRANTED

Section 7.4(f) – Minimum Side Yard – seeking 6.4 metres whereas 9 metres is required is hereby: GRANTED

Section 7.4(g) – Minimum Rear Yard – seeking 1.82 metres whereas 15 metres is required, is hereby: GRANTED

The above decision is based on the following reasons:

- 1. The variance is minor in nature in that the application conforms to the neighbourhood and provides adequate parking and does not pose any negative impacts on the abutting neighbours.**
- 2. The general purpose and intent of the Zoning By-Law is maintained in that adequate separation is maintained for drainage.**
- 3. The intent of the Official Plan is maintained in that it does not compromise the agricultural character of the area and will not negatively impact neighbouring properties.**
- 4. The proposal is desirable for the appropriate development and/or use of the land in that it provides flexibility for house designs on a very small lot and maximizes the amenity area to the west.**
- 5. This application is granted without prejudice to any other application in the Town of Pelham.**
- 6. No objections were received from commenting agencies or abutting property owners.**
- 7. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.**

The above decision is subject to the following condition:

- 1. That the Applicant must obtain a sewage system permit to accommodate a new Level IV sewage treatment system for the addition, to the satisfaction of the Director of Niagara Region Planning and Development Services and the Niagara Peninsula Conservation Authority, and that written documentation be provided to the Town Chief Building Official prior to issuance of a building permit.**
- 2. That all necessary permits be obtained prior to construction commencing, to the satisfaction of the Official Building Inspector.**

Carried

5.4 File A25/2017P - Matthew Moncrieff & Louise Daurio

Purpose of Application

The subject land is zoned 'Agricultural' (A) in accordance with Pelham Zoning By-law 1136(1987), as amended. The minor variance application requests relief from:

Section 7.7 (b) "Minimum Side & Rear Yard" to allow a 1.22 metres easterly side yard setback whereas 3 metres is required, to facilitate the construction of a detached garage.

Representation

Louise Daurio, registered owner, appeared on behalf of this application.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Building Department
3. Town of Pelham Public Works Department
4. Town of Pelham
5. Niagara Peninsula Conservation Authority

Applicant's comments

Ms. Daurio requested that the Committee members give consideration to removing the condition that is recommended by the Planning Staff which is to relocate the proposed accessory building in order to maintain a 3 metre setback between the nearest corner of the dwelling and that of the proposed detached garage for rear yard access and to maintain the required 1.5 meter setback to the septic tank and 5 metres to the septic bed.

Ms. Daurio presented two pictures of when the septic system was professionally installed and advised that this area is already accessible for maintenance and commented that there is a wooded area on the back of the deck and they are hoping to enjoy the rear yard without having to relocate the deck.

Public comments

No comments.

Members comments

The Committee Members unanimously agreed to support the Region's concerns with regard to access.

Moved By Donald Cook

Seconded By Brian DiMartile

Application for relief from Section 7.7 (b) – Minimum Side Yard & Rear Yard seeking 1.22 metres whereas 3 metres is required to facilitate construction of a detached garage, is hereby: GRANTED

The above decision is based on the following reasons:

- 1. The variance is minor in nature in that sufficient distance still separates the lot line and can accommodate drainage.**
- 2. The general purpose and intent of the Zoning By-Law is maintained in that some spatial separation is maintained for drainage purposes and maintenance of the exterior walls.**
- 3. The intent of the Official Plan is maintained in that rural aesthetics are maintained with no negative impacts to neighbours as drainage must be contained on site and greater distance buffers the proposed garage from the Greenbelt Natural Heritage Systems to the west.**
- 4. The proposal is desirable for the appropriate development and/or use of the land in that it will allow for greater use of the existing rear yard amenity space.**
- 5. This application is granted without prejudice to any other application in the Town of Pelham.**
- 6. No objections were received from commenting agencies or abutting property owners.**
- 7. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.**

The above decision is subject to the following conditions:

- 1. Prior to issuance of a building permit, that the Applicant confirm in writing that the proposed building is relocated in order to maintain a 3 metre setback between the nearest corner of the dwelling and that of the proposed detached garage for rear yard access and to maintain the required 1.5 metre setback to the septic tank and 5 metre to the septic bed, to the satisfaction of the Director of Community Planning and Development.**
- 2. That all necessary building permits be obtained prior to construction commencing, to the satisfaction of the Town of Pelham Chief Building Official.**

6. Applications for Consent

6.1 File B18/2017P - Gary & Meredith Groen

Purpose of Application

Application is made for consent to partial discharge of mortgage and to convey 1287m² (Part 4) of land to merge with the abutting lot to the west (Part 6), subject to a right-of-way in perpetuity to benefit of Parts 5, 7 & 8. Application is also made for consent to convey a right-of-way in perpetuity over Parts 2 and 3, to the benefit of Parts 4, 5, 6, 7 & 8 for use as a shared driveway for ingress and egress purposes. Parts 1, 2 & 3 are to be retained for continued use of the dwelling known municipally as 770 Cream Street.

This application is being considered concurrently with Minor Variance Files: A22/2017P & A23/2017P, and Consent Files: B19/2017P and B20/2017P.

Representation

Gary Groen, registered owner, appeared on behalf of this application.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Building Department
3. Town of Pelham Public Works Department
4. Niagara Peninsula Conservation Authority

Applicant's comments

No comments.

Public comments

No comments.

Members comments

No comments.

Moved By Brian DiMartile

Seconded By Donald Cook

Application for consent to partial discharge of mortgage and to convey 1,287 square metres (Part 4) of land, being Part 12, Concession 11, Town of Pelham, subject to a right-of-way in perpetuity to the benefit of Parts 5, 7 and 8. Application is also made for consent to convey a right-of-way in perpetuity over Parts 2 and 3, to the benefit of Parts 4, 5, 6, 7 and 8 for use as a shared driveway for ingress and egress purposes. Parts 1, 2, & 3 are to be retained for continued use of the dwelling known municipally as 770 Cream Street, is hereby: GRANTED

This decision is based on the following reasons:

- 1. The application conforms to the policies of the Town of Pelham Official Plan, Regional Policy Plan and Provincial Policy Statement, and complies with the Town's Zoning By-law.**
- 2. No objections to this proposal were received from commenting agencies or neighbouring property owners.**
- 3. This Decision is rendered having regard to the provisions of Sections 51(24) and 51(25) of the Planning Act, R.S.O., as amended.**
- 4. The Committee of Adjustment considered all written and oral submissions and finds that, subject to the conditions of provisional consent, this application meets Planning Act criteria, is consistent with the Provincial Policy Statement and complies with the Growth Plan, the Niagara Region Official Plan and the Town Official Plan.**

The above decision is subject to the following conditions:

- 1. Pursuant to Section 50(12) of the Planning Act, R.S.O. 1990, as amended, it is hereby stipulated that Section 53(3) or 50(5) shall apply to any subsequent conveyance of, or other transaction involving, the identical subject parcel of land. Therefore, once the subject parcel of land has been conveyed to the owner of the parcel abutting to the west (Part 6 on the preliminary sketch) the subject parcel and the said abutting parcel shall merge in title and become one contiguous parcel of land. A solicitor's written undertaking shall be provided to the Secretary-Treasurer indicating that the necessary steps to implement the conveyance will be taken, together with the registrable legal descriptions of the subject parcel and the consolidated parcel.**
- 2. That the applicant obtains the appropriate Niagara Peninsula Conservation Authority (NPCA) Work Permit(s) prior to any on-site works commencing for the installation of the driveway, to the satisfaction of NPCA.**
- 3. That the applicant re-register the existing easement onto the**

severed parcels for Parts 4 & 5 because Parts 4 & 5 cross an existing easement in favour of the Town, for the use of the turn-around-bulb, to the satisfaction of the Director of Public Works. The applicant shall bear all costs associated with these works.

4. That the applicant submit and receive an approved Driveway Entrance and Culvert Permit, issued through the Public Works Department for the installation / modification of the existing entrance, to the satisfaction of the Director of Public Works. As this access is being proposed to be shared, it will be required that it is constructed wide enough to allow for unimpeded two-way traffic movement. The applicant shall bear all costs associated with these works.

5. That 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, to the satisfaction of the Director, Town of Pelham Community Planning and Development Department.

6. That application for Consent, files B19/2017P & B20/2017P receive final certification of the Secretary-Treasurer concurrently.

7. That the Secretary-Treasurer be provided with a registrable legal description of the subject parcel and the consolidated parcel, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.

8. That the final certification fee of \$370, 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.

Carried

6.4 B21/2017P - 4 High Street Inc.

Purpose of Application

Application is made for consent to convey 4249m² of land (Part 1) to create a new lot for residential development. Part 2, known municipally as 1022 Pelham Street, is to be retained for continued commercial use.

Representation

Christian Venditti, authorized agent, appeared on behalf of this application.

Correspondence Received

1. Town of Pelham

2. Town of Pelham Building Department
3. Town of Pelham Public Works Department

Applicant's comments

No comments.

Public comments

Mr. Murrey Downie requested that the Committee members consider imposing two conditions on the application, as follows:

1. That the owner properly maintain the property; and
2. That the Town be authorized to have access to the back of the property in order to cut the grass, until the lot is developed.

Members comments

Member Federico advised Mr. Downie that the Committee of Adjustment has no mandate to deal with property maintenance concerns therefore, the Committee does not have the authority to impose such conditions.

Ms. Bozzato, Town Clerk / Secretary-Treasure reiterated Mr. Federico's comment in that property maintenance is not a type of condition that can be imposed by the Committee of Adjustment. A consent condition is one that the Applicant has one year to meet. Ms. Bozzatio advised Mr. Downie that he is welcome to address his concern through the Property Standards By-law by contacting the Town of Pelham By-law Officer.

No other comments were received from the members.

Moved By Donald Cook

Seconded By Brian DiMartile

Application for consent to convey 4,249 square metres of land, shown as Part 1 on the drawing submitted, to create a new lot for Semi-detached Residential use, Part 2, being part of Lot 1, Concession 10, in the Town of Pelham, is hereby: GRANTED

This decision is based on the following reasons:

- 1. The application conforms to the policies of the Town of Pelham Official Plan, Regional Policy Plan and Provincial Policy Statement, and complies with the Town's Zoning By-law.**

2. No objections to this proposal were received from commenting agencies or neighbouring property owners.
3. This Decision is rendered having regard to the provisions of Sections 51(24) and 51(25) of the Planning Act, R.S.O., as amended.
4. The Committee of Adjustment considered all written and oral submissions and finds that, subject to the conditions of provisional consent, this application meets Planning Act criteria, is consistent with the Provincial Policy Statement and complies with the Growth Plan, the Niagara Region Official Plan and the Town Official Plan.

The above decision is subject to the following conditions:

1. That the applicant submit a comprehensive overall lot grading & drainage plan for all parcels demonstrating that the drainage neither relies upon nor negatively impacts neighbouring properties, and that all drainage will be contained within the respective boundaries of the new parcel, to the satisfaction of the Director of Public Works & Utilities.
2. That 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 to the satisfaction of the Director, Town of Pelham Community Planning and Development Department.
3. That the Secretary-Treasurer be provided with a registrable 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.
4. That the final certification fee of \$370, 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.

Carried

8. Adjournment

Moved By Donald Cook

Seconded By Brian DiMartile

BE IT RESOLVED THAT this Meeting of the Committee of Adjustment Hearing be adjourned until the next regular meeting scheduled for August 1, 2017 at 4:00 pm.

Carried

James Federico, Chair

Secretary-Treasurer, Nancy J. Bozzato