

Meeting #: CoA-12/2017
Date: Tuesday, December 5, 2017
Time: 4:00 pm
Location: Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

Members Present James Federico
Donald Cook
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 4:02 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 for withdrawals or adjournments received.

5. **Applications for Minor Variance**

5.1 File A33-2017P - Colonnade 1440 Inc.

Purpose of Application:

The subject land is zoned General Commercial "GC" in accordance with Pelham Zoning By-law 1136(1987), as amended. The applicant is seeking relief from Section 19.3(a) - "Regulation for Residential Uses Permitted in Clause (c) of Subsection 19.1" - seeking 70% of the gross floor area for dwelling units whereas 50% is permitted.

Relief is sought to facilitate construction of an addition to a commercial building to construct an additional 12 residential units above the existing floors making it a four-storey mixed-use building.

Representation:

Danielle Greenwood, registered owner, and Lou Marcantonio, authorized Architect, 2M Architect Inc., 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 & Engineering Department
4. Town of Pelham Fire and By-law Services Department

Applicant Comments

Ms. Greenwood had no comment.

Public Comments

There were no comments received from the public.

Members Comments

The members had no comment.

Moved By John Klassen

Seconded By Donald Cook

Application for relief of Section 19.3(a) – “Regulation for Residential Uses Permitted in Clause (c) of Subsection 19.1” – seeking 70% of the gross floor area for dwelling units whereas 50% is permitted, to facilitate construction of an addition to a commercial building to construct an additional 12 residential units above the existing floors making it a four-storey mixed-use building, is hereby: GRANTED.

The above decision is based on the following reasons:

- 1. The variance is minor in nature in that adequate commercial space is available and ground level commercial space is to be maintained.**
- 2. The general purpose and intent of the Zoning By-Law is maintained in that commercial space is maximized at-grade, notwithstanding the driveway accesses.**
- 3. The intent of the Official Plan is maintained in that it will help**

- diversify the land use mix and add housing supply downtown.
4. The proposal is desirable for the appropriate development and/or use of the land in that it provides enduring resiliency in terms of managing rental income and vacancies and allows for a more stable supply of residents Downtown to support current and future businesses.
 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 all necessary building permits must be obtained prior to construction commencing, to the satisfaction of the Town of Pelham Chief Building Official.

Carried

5.2 File A34-2017P - Niagara Pines Development Ltd.

Purpose of Application

The subject land is zoned Residential "R1" in accordance with Pelham Zoning By-law 1136(1987), as amended. The applicant is seeking relief of the following:

Section 13.2(e) - Minimum Interior Side Yard - seeking 1.2 metres whereas 1.8 metres is required; and

Section 13.2(f) - Minimum Exterior Side Yard - seeking 3 metres whereas 5 metres is required.

Relief is sought to facilitate construction of a two-storey residential dwelling with a garage.

Representation

Paul Savoia, 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 Fire and By-law Services Department
4. Town of Pelham Public Works Department

Applicant Comments

Mr. Savoia, commented that the applicant is open to making changes to the south side façade as recommended by the Planning Staff.

Public Comments

There were no comments received from the public.

Members Comments

A member requested that a 4th condition be added to prepare and submit a final lot grading plan to the satisfaction of the Director of Community Planning and Development and all members agreed.

Moved By Donald Cook

Seconded By John Klassen

Application for relief of Section 13.2(e) – “Minimum Interior Side Yard” – seeking 1.2 metres whereas 1.8 metres is required, to facilitate the construction of a two-storey residential dwelling with a garage, is hereby: GRANTED.

Application for relief of Section 13.2(f) – “Minimum Exterior Side Yard” – seeking 3 metres whereas 5 metres is required, to facilitate the construction of a two-storey residential dwelling with a garage, is hereby: GRANTED.

The above decision is based on the following reasons:

- 1. The variance is minor in nature in that there are no negative impacts on the neighbours.**
- 2. The general purpose and intent of the Zoning By-Law is maintained in that adequate spatial separation for drainage purposes and will not pose any proximate dangers to vehicle traffic and will positively reinforce the public realm by framing the streetscape with an active building façade.**
- 3. The intent of the Official Plan is maintained in that there are no negative impacts on the neighbours.**

4. The proposal is desirable for the appropriate development and/or use of the land in that it allows for more design flexibility while preserving rear yard open 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. That no hard surface is permitted along the north side of the property, adjacent to the garage, as it allows for proper drainage of the property, to the satisfaction of the Town of Pelham Director of Public Works.
2. That the Applicant must redesign the south façade elevations to contribute more positively to the public realm via increased glazing as well as the introduction of architectural elements including but not limited to a porch, entrance door / dormers, bay window, etc., to the satisfaction of the Director of Community Planning & Development.
3. That all necessary building permits must be obtained prior to construction commencing, including the demolition permit for the existing dwelling, to the satisfaction of the Town of Pelham Chief Building Official.
4. That the Applicant must, prior to issuance of the building permit, submit a final lot grading plan to the satisfaction of the Director of Community Planning and Development.

Carried

5.3 File A35-2017P - Terry Anne Matthews

Purpose of Application:

The subject land is zoned Agricultural "A" in accordance with Pelham Zoning By-law 1136(1987), as amended. The applicant is seeking relief from the following:

1. Section 7.4(c) Maximum Overall Lot Coverage – seeking 12.5%

whereas 10% maximum is required;

2. Section 7.4(d) Minimum Front Yard – seeking 6.9 metres whereas 13 metres is required;

3. Section 7.4(f) Minimum Side Yard – seeking 3 metres whereas 9 metres is required;

4. Section 7.7(a) Accessory Lot Coverage – seeking 4% whereas 1% maximum is required.

Relief is sought to facilitate construction of a detached accessory building and a detached garage.

Representation:

Todd Barber, authorized agent, 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 & Engineering Department
4. Town of Pelham Fire and By-law Services Department
5. Region Comments

Applicant Comments

The Agent, Mr. Barber, had no comments.

Public Comments

Peter Van Caulart commented that he and his wife support the application. He suggested that the correct location of the drainage and sewage system needs to be determined and then they support the project going ahead.

Mr. Barber advised that there is no record of the history of the location of the sewage system and the applicant is aware that they may need to construct an entirely new bed in order to proceed.

Members Comments

A member questioned the setback measurements.

Mr. Barber advised that this was prepared by a professional and he is confident that the site plan drawing is accurate and explained the reason for the design.

**Moved By John Klassen
Seconded By Donald Cook**

Application for relief of Section 7.4(c) – “Maximum Overall Lot Coverage” – seeking 12.5% whereas 10% maximum is required, to facilitate construction of a detached accessory building and a detached garage, is hereby: GRANTED.

Application for relief of Section 7.4(d) – “Minimum Front Yard” – seeking 6.9 metres whereas 13 metres is required, to facilitate construction of a detached accessory building and a detached garage, is hereby: GRANTED.

Application for relief of Section 7.4(f) – “Minimum Side Yard” – seeking 3 metres whereas 9 metres is required, to facilitate construction of a detached accessory building and a detached garage, is hereby: GRANTED.

Application for relief of Section 7.7(a) – “Accessory Lot Coverage” – seeking 4% whereas 1% maximum is required, to facilitate construction of a detached accessory building and a detached garage, is hereby: GRANTED.

The above decision is based on the following reasons:

- 1. The variance is minor in nature in that adequate open space is available for drainage, recreation and a reserve septic system location and no negative impacts on the neighbourhood.**
- 2. The general purpose and intent of the Zoning By-Law is maintained in that adequate landscaped open space is maintained for drainage purposes and there are no negative impacts on the neighbours.**
- 3. The intent of the Official Plan is maintained in that it will not detract from the agricultural viability of the area and there are no negative impacts on the neighbours.**
- 4. The proposal is desirable for the appropriate development and/or use of the land in that it facilitates construction of a garage and allows for more design flexibility while helping to preserve rear yard open space for recreational purposes, provides for drainage and septic areas and there are no negative impacts on the neighbours.**
- 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 approval must be obtained from the Niagara Region Private Sewage Systems Division for Septic System compliance prior to building permit application, to the satisfaction of the Niagara Region Private Sewage Systems Division.**
- 2. That all appropriate building permits must be submitted and obtained in accordance with the plans submitted herein, particularly with respect to the Canboro Road (south) elevation, to the satisfaction of the Director of Community Planning & Development.**
- 3. That a Temporary Works Permit must be obtained for the review and approval of the proposed second driveway access (please note that curb stops cannot be located in or underneath a driveway), to the satisfaction of the Town of Pelham Director of Public Works.**
- 4. That all necessary building permits must be obtained prior to construction commencing, to the satisfaction of the Town of Pelham Chief Building Official.**

Carried

5.4 File A36-2017P - Homes by Antonio Ltd.

Purpose of Application:

The subject land is zoned Agricultural "A" in accordance with Pelham Zoning By-law 1136(1987), as amended. The applicant is seeking relief from Section 6.14(a) - "New Development in or Adjacent to an Agricultural A Zone or Special Rural SR Zone" - seeking relief from the minimum distance separation (MDS) to allow a distance of 86.24 metres whereas 300 metres is required, being the distance separation from a barn on an adjacent property, to facilitate construction of a detached single family dwelling.

Representation:

Patrick Maloney, authorized agent, 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 and By-law Services Department
5. Region Comments
6. NPCA Comments
7. Doug & Tara Hargreaves
8. Ted Bowman

Applicant Comments

The agent, Mr. Maloney's comments included, but are not limited to the following:

- The plan is to construct a home on the property which is near a number of buildings
- The Applicant accepts the recommendations from the Planning Staff
- This is an existing lot created through the Canadian Pacific Railway corridor and there are limitations on this property for a rural residential use
- The applicant can meet all the requirements except the MDS conditions because the winds will carry the odors away from the property
- There is another dwelling that is within a few metres from the barn and much closer than this application and they plan to plant trees as a barrier
- The Town has asked for a Development Agreement in order for future buyers of the property to be aware of the barn and the Applicant agrees
- Mr. Maloney suggested that one more dwelling in that area will not provide negative impacts and that agricultural uses can live in harmony with residential uses
- Mr. Maloney suggested that this application will have no negative impacts on the agricultural use of this barn because there are homes closer to the barn than this application
- Mr. Maloney suggested that if there are complaints respecting nuisance issues, the Act would sufficiently deal with

that issue and asked that the committee members respect the Planning Staff's recommendation to approve the application.

Public Comments

Doug Hargreaves's comments included, but are not limited to the following:

- That he and his wife, Tara Hargreaves, object to this application
- He does not consider this variance minor
- He advised that he has lived on Canboro Road since 1982 and he has seen where there were 40-50 cattle on that farm which produced strong odours
- Although the farm is currently not in full operation, the facility is still equipped to farm and it is possible for the owner to sell that property to a buyer who may continue the farming operation
- He advised that his property is far enough away from the barn and he reiterated that, in his opinion, this is not a minor variance

Mr. Maloney commented that the focus should be on impact; regarding manure, MDS does not apply, there are no cattle in the barn currently;

Members Comments

A member commented that there are no complaints currently;

There were no further comments from any of the members present.

Moved By Donald Cook

Seconded By John Klassen

Application for relief of Section 6.14(a) "New Development in or Adjacent to an Agricultural A Zone or Special Rural SR Zone" – seeking relief from the minimum distance separation (MDS) to allow a distance of 86.24 metres whereas 300 metres is required, being the distance separation from a barn on an adjacent property, to facilitate construction of a detached single family dwelling, is hereby: GRANTED.

The above decision is based on the following reasons:

- 1. The variance is minor in nature in that the lack of nuisance complaints with several existing dwellings in close proximity and the west winds directing odour from the nearby livestock operation to the east and there are no negative impacts experienced by current**

nearby residential uses.

2. The general purpose and intent of the Zoning By-Law is maintained in that adequate open space is maintained between the existing and proposed use and there are no negative complaints from the current neighbouring residents.
3. The intent of the Official Plan is maintained in that it would permit the construction of a single detached dwelling which is a permitted use on existing lots of record.
4. The proposal is desirable for the appropriate development and/or use of the land in that it would provide for the development of a single detached dwelling for which the lot was naturally created as a result of the Canadian Pacific Railway corridor and the vacant lot is too small for a traditional independent cash crop operation.
5. This application is granted without prejudice to any other application in the Town of Pelham.
6. 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 approval must be obtained from the Niagara Region Private Sewage Systems Division for Septic System Compliance prior to the building permit application, to the satisfaction of the Niagara Region Private Sewage System Division.
2. That the Applicant must enter into a Development Agreement with the Town of Pelham for the purposes of developing the lot to include:
 - a. Obtaining an Entrance Permit from the Public Works Department for the installation of a driveway/culvert, as applicable, in accordance with Town standards, to the satisfaction of the Director of Public Works;
 - b. An owner warning clause specifying that, “The owner acknowledges that their property is located within a calculated radius as determined by the Ministry of Agriculture, Food & Rural Affairs Minimum Distance Separation formula & the Town’s Zoning By-law Minimum Distance Separation spatial requirement and that they may potentially, from time to time, experience unpleasant odors from an existing adjacent livestock operation”.
3. That all necessary building permits must be obtained prior to construction commencing, to the satisfaction of the Town of Pelham Chief Building Official.

Carried

7. Minutes for Approval

**Moved By Donald Cook
Seconded By James Federico**

That the minutes of the July 11, 2017, Committee of Adjustment Hearing be approved.

Carried

8. Adjournment

**Moved By John Klassen
Seconded By Donald Cook**

BE IT RESOLVED THAT this Meeting of the Committee of Adjustment Hearing be adjourned until the next regular meeting scheduled for January 9, 2017 at 4:00 pm.

Carried

James Federico, Chair

Secretary-Treasurer, Nancy J. Bozzato