

Meeting #: CoA-01/2017
Date: Tuesday, January 10, 2017
Time: 4:00 pm
Location: Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

Members Present James Federico
Wayne Lockey
Donald Cook

Staff Present Jordan Mammoliti
Judy Sheppard

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

Noting that a quorum was present, Chair Lockey called the meeting to order at approximately 4:00 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.

2. Disclosure of Pecuniary Interest and General Nature Thereof

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

3. Requests for Withdrawal or Adjournment

There were no requests for Withdrawal or Adjournment.

4. Applications for Minor Variance

4.1 File A1/2017P - Costiano Developments

Purpose of the Application:

The subject land is zoned R1-184 in accordance with Pelham Zoning By-law 1136(1987), as amended. The applicant is seeking relief of the R1-184 exception Section 2(c) to allow an overall lot coverage of 47% whereas 45% is allowed. The required rear-yard setback distance in an R1-184 zone is 7.5 metres; however Section 6.35(c) of the General Provisions permits a 1.5 metre encroachment into the rear-yard for unenclosed porches, balconies, steps and patios. The applicant is requesting relief from this provision to allow a total encroachment of 1.7 metres for the proposed deck resulting in a rear-yard setback distance of 5.8 metres whereas 6 metres is required. Relief is requested for the purpose of constructing a covered porch.

Representation:

Jon Whyte, Mountainview Homes, appeared on behalf of this application.

Correspondence Received:

1. Town of Pelham Planner
2. Town of Pelham Building Intake/Plans Examiner
3. Town of Pelham Public Works Department
4. Niagara Peninsula Conservation Authority

Comments:

The Committee members noted that the required poster had been posted however, it was not currently posted on the subject property. The Applicant advised that the sign was posted well in advance of the required 10 days for posting but must have fallen to the ground due to weather conditions. The Committee decided to proceed with the application and emphasized the importance of posting the required poster.

There were no further comments on the requests for minor variance.

Moved By: Donald Cook

Seconded By: James Federico

Application for relief of the R1-184 exception Section 2(c) to allow an overall lot coverage of 47% whereas 45% is allowed is hereby:

GRANTED

Application for relief of Section 6.35(c) to allow a total encroachment of 1.7 metres for the proposed deck resulting in a rear-yard setback distance of 5.8 metres whereas 6 metres is required is hereby:

GRANTED

The above decisions are based on the following reasons:

- 1. The variance is minor in nature as the proposed lot coverage of 47% will maintain adequate open amenity space and no adverse impacts are anticipated by the increase in lot coverage. The requested variance to permit a larger rear yard encroachment for the proposed covered porch is also considered minor in nature given the small scale of the proposed deck in relation to the size of the entire rear yard.**
- 2. The general purpose and intent of the Zoning By-Law is maintained as the requested increase in lot coverage allows for adequate open amenity space and lot drainage is not negatively impacted. The proposed rear yard encroachment will also maintain the general purpose and intent of the Zoning By-law as some spatial separation is maintained between the rear yard lot line and abutting neighbours.**
- 3. The intent of the Official Plan is maintained in that adequate open amenity space will remain available and drainage is not compromised. The proposed covered porch will not negatively affect any neighbouring resident's sight lines of sun exposure, and the side yard setback will be maintained.**
- 4. The proposal is desirable for the appropriate development and/or use of the land as the proposal will facilitate an improved rear yard amenity space without affecting any neighbouring properties.**
- 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 decision is subject to the following conditions:

1. That all necessary permits are required prior to construction commencing, to the satisfaction of the Town of Pelham Chief Building Official.

Carried

5. Applications for Consent

5.1 B14/2016P - DeHaan Homes Inc.

Purpose of Application:

Application is made for consent to partial discharge of mortgage and to convey 0.80 hectares of land, shown as Part 2 on the drawing submitted, being Part of Lot 3, Concession 8, in the Town of Pelham..

Representation:

Ken Gonyou, Upper Canada Consultants, appeared on behalf of this application.

Correspondence Received:

1. Town of Pelham Planning Department
2. Town of Pelham Building Intake / Plans Examiner
3. Town of Pelham Public Works
4. Region of Niagara
5. Niagara Peninsula Conservation Authority
6. Bell Canada
7. R. Moffat
8. B. Gibson

Comments:

From the Applicant:

A presentation was made by Ken Gonyou, Upper Canada Consultants on behalf of the applicant.

A copy of the presentation forms part of the Committee of Adjustment File B14/2016P.

From the Public:

1. Bill Gibson, Oakridge Blvd.

Mr. Gibson advised that he does not support the application and made a presentation to support his view.

A copy of the presentation forms part of the Committee of Adjustment File B14/2016P.

2. Karen Buckley, Canboro Road

Ms. Buckley advised that she does not support the application due to unruly noise.

From the Committee:

Members of the Committee addressed their concerns, regarding whether a slope stability study was completed by Landtec. Mr. Gonyou confirmed that a study was completed by professional engineers. Mr. Gonya also advised that a report of the findings was submitted to the Niagara Peninsula Conservation Authority (NPCA) and was approved. The Applicant advised that the lot line is placed according to the NPCA's recommendation.

Moved By: James Federico

Seconded By: Donald Cook

Application is made for consent to partial discharge of mortgage and to convey 0.80 hectares of land, shown as Part 2 on the drawing submitted, being part of Lot 3, Concession 8, in the Town of Pelham, is hereby:

GRANTED

The above decisions are subject to the following conditions:

- 1. That documentation shall be provided to the satisfaction of the Director of Public Works confirming that there are no existing water services branching from or through Parts 1 & 2 to other lands.**
- 2. That an application shall be submitted for each new connection to the 300mmø AC Regional watermain located on Canboro Rd to the satisfaction of the Niagara Region Planning and Development Services Division, through the Town of Pelham Public Works Department.**
- 3. The parcels do not front on an existing Town of Pelham sanitary gravity sewer main. The applicant shall enter into a Development**

Agreement with the Town for the purposes of servicing the subject land, to the satisfaction of the Director of Community Planning and Development.

4. That a comprehensive lot grading plan for both parcels be submitted demonstrating that no surface drainage is directed onto any adjacent lot by sheet flow or other means to the satisfaction of the Director of Public Works.

5. The applicant shall dedicate sufficient land, other than land occupied by buildings or structures, along the Canboro Road frontage of Parts 1 & 2 for the purposes of a road widening to a width of 20m, as necessary. These lands shall be conveyed by the applicant to the Town of Pelham, free and clear of all encumbrances as per the Town Official Plan policies.

6. 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.

7. That the final certification fee of \$358, 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.

This decision is based on the following reasons:

1. The applicant is aware that the Niagara Peninsula Conservation Authority offers no objections to the proposal as both parcels of land are of sufficient size to achieve all required setbacks from the adjacent valley, and the proposed lot lines for Part 2 will not have any adverse impacts on the adjacent Significant Woodland.

2. 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.

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.

Carried

5.2 B1/2017P - Otto and Patricia Heinrich

Purpose of the Application:

Application is made for consent to convey 1951.6 square metres of land for single detached residential use. 1963.8 square metres of land is to be retained for continued single family residential use for the dwelling known municipally as 1153 Maple Street. The fenced in pool area is to be removed.

Representation:

Otto Heinrich, Applicant, appeared on behalf of this application.

Correspondence Received:

1. Town of Pelham Planning Department
2. Town of Pelham Building Intake / Plans Examiner
3. Town of Pelham Public Works
4. Bell Canada

Comments:

Applicant:

Mr. Heinrich advised that large trees are preventing proper access to his property and suggested that approval is required to remove appropriate trees in order to gain access. Mr. Heinrich was advised by the Committee that he would have to meet with the Public Works Department to deal with his accessibility issue.

Public:

No comments were received from the Public.

Moved By: Donald Cook

Seconded By: James Federico

Application is made for consent to convey 1951.6 square metres of land, shown as Part 1 on the drawing submitted, being part of Lot 3, Plan 703 in the Town of Pelham, is hereby:

Granted

The above decision is subject to the following conditions:

- 1. That the Applicant provide written confirmation to satisfaction of the Director of Public Works that no existing water or sewer services branch from or through the proposed & remnant lots to other lands, or between the proposed property line.**
- 2. That the Applicant submit a comprehensive lot grading & drainage plan for all parcels to demonstrate that drainage does not negatively impact neighbouring properties to the satisfaction of the Director of Public Works.**
- 3. That the Applicant install individual water services and sewer laterals from the main to the property line, to Town standards, under a Temporary Works Permit issued through the Public Works Department, and the applicant shall bear all associated costs to perform this work.**
- 4. That the Applicant install driveways and culverts as applicable, to Town of Pelham standards, under a Driveway Entrance / Culvert Permits issued through the Public Works Department, and the applicant shall bear all associated costs to perform this work.**
- 5. That any tree removal on Town property be conducted with the permission of the Town of Pelham to the satisfaction of the Director of Public Works.**
- 6. 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.**
- 7. That the final certification fee of \$358, 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.**

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.**

Carried

6. Concurrent Applications for Consent and Minor Variance

6.1 B2/2017P - Mancini Developments Inc.

Purpose of the Application:

Application is made for consent to convey and partial discharge of mortgage 349.31 square metres of land, shown as Part 2 on the drawing submitted, being part of Lot 47, Plan M-48.

Representation:

William Heikoop, Upper Canada Consultants and Tony Mancini, Mancini Developments Inc. appeared on behalf of this application.

Correspondence Received:

1. Town of Pelham Planning Department
2. Town of Pelham Building Intake / Plans Examiner
3. Town of Pelham Public Works
4. Bell Canada
5. N. Degiuli, S. Infantino & D. Mowat
6. H. Margeson

Comments:

Applicant:

William Heikoop, Upper Canada Consultants, made a presentation respecting the application. A copy of the presentation forms part of the Committee of Adjustment File B2/2017P.

Public:

1. Nick Deguili, Haist Street advised the Committee that his backyard adjoins the subject property and he strongly opposed all variances. His concerns are: 1) the buffer requested by the applicant will encroach on his property which will decrease the value of his property; 2) concerns respecting water drainage and loss of property; 3) the application does not compliment the community; and 4) that this should not be considered a Minor Variance since the applicant is asking for 50% variance - from 700m to 349m.

2. Ron Kore, Vinemount advised the Committee that he opposes the variances. His concerns are: 1) application will not enhance the community; 2) loss of privacy in backyard; 3) the community currently has a high density population.

3. Chris Margeson, Vinemount advised the Committee that he opposes the variances. His concerns are: 1) high-pitched roofs - was a shadow study completed; 2) sideyard setback of subject property is quite small therefore, how will adjacent properties be affected during backfill.

Members:

Member Cook advised that he disagrees with the application of the Provincial Policy Statement's application to this property, as the proposed development would provide for over-intensification of the area. Committee members also commented that the application is a concern due to the proposed rear yard encroachment; conveyance; not appropriate for the area due to increased size; consideration of strong opposition from neighbours.

Moved By: James Federico

Seconded By: Donald Cook

Application is made for consent to convey and partial discharge of mortgage 349.31 square metres of land, shown as Part 2 on the drawing submitted, being part of Lot 47, Plan M-48, in the Town of Pelham and is hereby:

REFUSED

This decision is based on the following reasons:

1. The Committee of Adjustment members found that the proposal was not appropriate for development considering the surrounding lands.

2. 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.

3. The Committee of Adjustment considered all written and oral submissions. The Committee disagrees with the planning report analysis and recommendation and finds that this application does not meet Planning Act criteria, is not consistent with the Provincial Policy Statement and does not comply with the Growth Plan, the Niagara Region Official Plan and the Town Official Plan.

Defeated

6.2 A2/2017P - Mancini Developments Inc.

Purpose of the Application:

The subject land is zoned R-1 Residential 1 in accordance with Pelham Zoning By-law 1136(1987), as amended. The applicant is seeking relief of the following Zoning By-law provisions to facilitate construction of a single detached dwelling:

1. 13.2(a) to allow minimum lot area of 348.64 square metres whereas 700 square metres is required;
2. 13.2(b) to allow a lot frontage of 11.887 metres whereas 19 metres is required;
3. 13.2(c) to allow a maximum overall lot coverage of 50% whereas 30% is allowed;
4. 13.2(d) to allow a front yard setback of 5.5 metres whereas 7.7 metres is required;
5. 13.2(e) to allow a minimum interior side yard of 1.2 metres whereas 1.8 metres is required;
6. 13.2(g) to allow a minimum rear yard setback of 6 metres whereas 7.5 metres is required.

Consent (severance) File B2/2017P, together with a concurrent minor variance application under File A3/2017P are being considered concurrently.

Representation:

William Heikoop, Upper Canada Consultants and Tony Mancini, Mancini Developments Inc. appeared on behalf of this application.

Correspondence Received:

1. Town of Pelham Planner
2. Town of Pelham Building Intake/Plans Examiner
3. Town of Pelham Public Works Department
4. N. Degiuli, S. Infantino & D. Mowat

Comments:

No comments from the agent were offered. This application was not heard by the Committee of Adjustment.

Moved By: James Federico

Seconded By: Donald Cook

**Application for relief of 13.2(a) to allow minimum lot area of 348.64 square metres whereas 700 square metres is required is hereby:
Refused**

**Application for relief of 13.2(b) to allow a lot frontage of 11.887 metres whereas 19 metres is required is hereby:
Refused**

**Application for relief of 13.2(c) to allow a maximum overall lot coverage of 50% whereas 30% is allowed is hereby:
Refused**

**Application for relief of 13.2(d) to allow a front yard setback of 5.5 metres whereas 7.7 metres is required is hereby:
Refused**

**Application for relief of 13.2(e) to allow a minimum interior side yard of 1.2 metres whereas 1.8 metres is required is hereby:
Refused**

**Application for relief of 13.2(g) to allow a minimum rear yard setback of 6 metres whereas 7.5 metres is required is hereby:
Refused**

The above decisions are based on the following reasons:

1. The concurrent application for consent, File B2/2017P was refused by the Committee of Adjustment, therefore, making the variances not required.

Carried

6.3 A3/2017P - Mancini Developments Inc.

Purpose of the Application:

The subject land is zoned R-1 Residential 1 in accordance with Pelham Zoning By-law 1136(1987), as amended. The applicant is seeking relief of the following Zoning By-law provisions to facilitate construction of a single detached dwelling:

1. 13.2(a) to allow minimum lot area of 349.31 square metres whereas 700 square metres is required;
2. 13.2(b) to allow a lot frontage of 11.887 metres whereas 19 metres is required;
3. 13.2(c) to allow a maximum overall lot coverage of 50% whereas 30% is allowed;
4. 13.2(d) to allow a front yard setback of 5.5 metres whereas 7.7 metres is required;
5. 13.2(e) to allow a minimum interior side yard of 1.2 metres whereas 1.8 metres is required;
6. 13.2(g) to allow a minimum rear yard setback of 6 metres whereas 7.5 metres is required.

Consent (severance) File B2/2017P, together with a concurrent minor variance application under File A2/2017P are being considered concurrently.

Representation:

William Heikoop, Upper Canada Consultants and Tony Mancini, Mancini Developments Inc. appeared on behalf of this application.

Correspondence Received:

1. Town of Pelham Planner
2. Town of Pelham Building Intake/Plans Examiner
3. Town of Pelham Public Works Department
4. N. Degiuli, s. Infantino & D. Mowat

Comments:

No comments from the agent were offered. This application was not heard by the Committee of Adjustment.

Moved By: James Federico
Seconded By: Donald Cook
Application for relief of 13.2(a) to allow minimum lot area of 349.31 square metres whereas 700 square metres is required is hereby:
REFUSED

Application for relief of 13.2(b) to allow a lot frontage of 11.887 metres whereas 19 metres is required is hereby:
REFUSED

Application for relief of 13.2(c) to allow a maximum overall lot coverage of 50% whereas 30% is allowed is hereby:
REFUSED

Application for relief of 13.2(d) to allow a front yard setback of 5.5 metres whereas 7.7 metres is required is hereby:
REFUSED

Application for relief of 13.2(e) to allow a minimum interior side yard of 1.2 metres whereas 1.8 metres is required is hereby:
REFUSED

Application for relief of 13.2(g) to allow a minimum rear yard setback of 6 metres whereas 7.5 metres is required is hereby:
REFUSED

The above decisions are based on the following reasons:

1. The concurrent application for consent, File B2/2017P was refused by the Committee of Adjustment, therefore making the variances not required.

Defeated

7. Minutes for Approval

7.1 December 6, 2016 Minutes

Moved By: Donald Cook
Seconded By: James Federico
That the minutes of the December 6, 2016 Committee of Adjustment Hearing be approved.

Carried

8. Adjournment

Moved By: James Federico

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 February 7, 2017 at 4:00 pm.

Carried

Wayne Lockey, Chair

Secretary-Treasurer, Nancy J. Bozzato