

## Committee of Adjustment MINUTES

### Committee Of Adjustment Hearing 5/2014

Meeting Type : Committee of Adjustment Hearing

Date : Tuesday, July 08, 2014

Location : Town of Pelham Municipal Building - Council Chambers

### MINUTES

#### ATTENDANCE

##### Present were:

##### Hearing Chair

- B. DiMartile

##### Hearing Panel

- R. Hatt
- W. Lockey

##### Deputy Clerk / Assistant Secretary-Treasurer

- Jordan Mammoliti

##### ?Other

- Applicants and/or Authorized Agents as Indicated in Minutes
- Interested Citizens

#### CALL TO ORDER, DECLARATION OF QUORUM AND INTRODUCTION OF COMMITTEE AND STAFF

The meeting was called to order by Chair DiMartile at 4:00 p.m., who introduced the Committee Hearing Panel Members and Staff in attendance at the hearing.

#### DISCLOSURE OF PECUNIARY INTEREST AND GENERAL NATURE THEREOF

The members in attendance declared they had no pecuniary interest in any of the applications to be dealt with at this hearing.

#### FILE A7/2014P -

#### Purpose of the Application:

**COSTIANO  
DEVELOPMENTS  
INC.**  
(APPLICATIONS FOR  
MINOR VARIANCE)

The subject land is zoned R1-187 in accordance with Pelham Zoning By-law 1136(1987), as amended. The applicant is seeking relief of By-law 3325(2012)(g) to allow a 7.5 metre rear yard setback whereas 15 metres is required.

**Representation:**

Jon Whyte, Agent represented on behalf of the application.

**Correspondence:**

Town of Pelham Community Planning & Development Report

Appendices:

- Town of Pelham Public Works
- Town of Pelham Chief Building Official
- Niagara Peninsula Conservation Authority
- Carolyn Hurst

**Comment:**

Mr. Whyte advised that setback was originally imposed to maintain a distance from the woodlot in the area, however this was an error. The increased setback was intended to be imposed on other properties in the subdivision, however the subject property does not require a setback of this distance.

**Resolution #CA20140708.1001**

Moved By: Member Hatt Second By: Member Lockey

**Application for relief of By-law 3325(2012)(g) to allow a 7.5 metre rear yard setback whereas 15 metres is required is hereby GRANTED.**

**This decision is based on the following reasons:**

1. **The variance is minor in nature as the proposed rear yard setback would not negatively impact on the amenity space of adjacent neighbours and the protection of environmental features and the view north of the property will be maintained.**
2. **The general purpose and intent of the Zoning By-Law is maintained as the reduction in the rear yard setback is minor in nature and consistent with existing zone exception regulations in the neighbourhood.**
3. **The intent of the Official Plan is maintained as the subject parcel's use is within the permitted uses.**
4. **The proposal is desirable for the appropriate development and/or use of the land as the rear yard setback will be consistent with adjacent neighbouring lots that have existing rear yard setbacks of 7.5 metres and the subject parcel will continue to maintain the 15 metre buffer from environmental features.**
5. **This application is granted without prejudice to any other application in the Town of Pelham.**

**And is subject to the following condition:**

1. **That the north-west corner of the lot is to retain the 15 metre buffer from the existing natural heritage system to protect**

**environmental features and the view north of the property to the satisfaction of the Director of Community Planning and Development.**

**CARRIED**

**FILE A8/2014P -  
1898262  
ONTARIO INC.  
(APPLICATIONS FOR  
MINOR VARIANCE)**

**Purpose of the Application:**

The subject land is zoned GC-21 General Commercial in accordance with Pelham Zoning By-law 1136(1987), as amended. The applicant is seeking relief of Section 6.16(d)(i) to allow an aisle width of 4.6 metres whereas 7.5 metres is required for two-way traffic, and from Section 6.17(b) to permit a planting strip width along the east property line of 0.6 metre whereas 3.0 metres is required to facilitate construction of a parking area to the rear of the structure.

**Representation:**

Greg Redden, Agent represented on behalf of the application.

**Correspondence:**

Town of Pelham Community Planning & Development Report

- Appendices:
  - Town of Pelham Public Works
  - Town of Pelham Chief Building Official
  - Niagara Region Planning & Development Services Department

**Comment:**

Mr. Redden advised that the subject property had a dwelling and garage. The garage has been removed to provide access for two-way traffic. Mr. Redden stated that staff are in support of the application.

Member Hatt questioned the number of parking spaces on the property. Mr. Redden advised that there are 7 parking spaces (4 rear spots, 3 in the front of the property). Mr. Redden advised that the parking spaces meet the zoning requirements.

**Resolution #CA20140708.1002**

Moved By: Member Lockey    Second By: Member Hatt

**Application for relief of Section 6.16(d)(i) to allow an aisle width of 4.6 metres whereas 7.5 metres is required for two-way traffic is hereby GRANTED; and**

**Application for relief of Section 6.17(b) to permit a planting strip width along the east property line of 0.6 metre whereas 3.0 metres is required is hereby GRANTED.**

**This decision is based on the following reasons:**

1. **The variance is minor in nature as the parking at the front of the building will serve as a lay-by for one-way traffic approaching from the rear of the lot. The variance is also minor in nature as a vegetative buffer and a fence will be required as a condition of site plan approval on the subject property.**
2. **The general purpose and intent of the Zoning By-Law is maintained as the reduction in aisle width and planting strip are minor in nature.**

3. The intent of the Official Plan is maintained as the subject parcel's use is within the permitted uses of the Urban Living Area / Built Boundary designation.
4. The proposal is desirable for the appropriate development and/or use of the land as it is consistent with the single residential dwellings driveway widths located to the east of the parcel and maintains the character of the neighbourhood. Further, a vegetative buffer and improved fence will enhance privacy and the amenity space of adjacent properties making the variances desirable for the appropriate development or use 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.

And is subject to the following condition:

1. That the applicant apply for and obtain site plan approval based on the minor variances prior to the issuance of a Building Permit, to the satisfaction of the Director of Community Planning & Development.

**CARRIED**

**FILE A9/2014P -  
JEFFREY JOHN  
SUPERKA &  
DENISE  
SUPERKA**  
(APPLICATIONS FOR  
MINOR VARIANCE)

**Purpose of the Application:**

The subject land is zoned Agricultural A in accordance with Pelham Zoning By-law 1136(1987), as amended. The applicant is seeking relief of Section 7.4(f) to allow a side yard setback of 1.5 metres whereas 9 metres is required to accommodate a proposed addition to the garage.

**Representation:**

Jeffrey Superka represented on behalf of the application.

**Correspondence:**

Town of Pelham Community Planning & Development Report

- Appendices:
  - Town of Pelham Public Works
  - Town of Pelham Chief Building Official
  - Niagara Region Planning & Development Services Department

**Comment:**

Mr. Superka noted that the proposed development is consistent with development in the neighbourhood.

Member Lockey questioned whether the shed on the property will be demolished. Mr. Superka confirmed that the shed and cover-all will be demolished. Member Hatt questioned whether the hedge on the property is owned by Mr. Superka. He confirmed that the hedge is owned by his neighbour.

**Resolution #CA20140708.1003**

Moved By: Member Hatt    Second By: Member Lockey

**Application for relief of Section 7.4(f) to allow a side yard setback of 1.5 metres whereas 9 metres is required is hereby GRANTED; and Application for relief of Section 9.2(e) to allow a side yard setback of 1.5 metres whereas 3 metres is required is hereby GRANTED.**

**This decision is based on the following reasons:**

- 1. The variance is minor in nature as the decreased setback will not negatively impact on the amenity space of the adjacent neighbour as the existing hedge that borders the property will be maintained.**
- 2. The general purpose and intent of the Zoning By-Law is maintained as the reduction in the side yard setback is minor in nature and consistent with existing zone exception regulations in the neighbourhood.**
- 3. The intent of the Official Plan is maintained as the subject parcel's use is within the permitted uses of the Urban Living Area / Built Boundary and Specialty Agricultural designation.**
- 4. The proposal is desirable for the appropriate development and/or use of the land as there will not be an impact of shading or loss of privacy space of the abutting neighbour and the reduction in side yard setback will maintain the village character.**
- 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.**

**CARRIED**

**FILE A10/2014P -  
ROBERT  
WILLIAM MUIR &  
HEATHER LEE  
MUIR**

(APPLICATIONS FOR  
MINOR VARIANCE)

**Purpose of the Application:**

The subject land is zoned RM1-206 in accordance with Pelham Zoning By-law 1136(1987), as amended. The required rear-yard setback distance for block Townhouse dwellings in an RM1 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 applicants are requesting relief from this provision to allow a total encroachment of 3.1 metres for the deck resulting in a rear-yard setback distance of 5.127 metres. The applicants are requesting relief for the purposes of enclosing an existing deck.

**Representation:**

Bill Hind, agent represented on behalf of the application.

**Correspondence:**

Town of Pelham Community Planning & Development Report

- Appendices:
  - Town of Pelham Public Works
  - Town of Pelham Chief Building Official

**Comment:**

Mr. Hind had no comments to add.

**Resolution #CA20140708.1004**

Moved By: Member Lockey Second By: Member Hatt

**Application for relief of Section 6.35(c) to permit a total encroachment of 3.1 metres for an enclosed deck resulting in a rear yard setback of 5.127 metres is hereby GRANTED.**

**This decision is based on the following reasons:**

1. **The variance is minor in nature as the increased encroachment of the deck will not result in a negative impact on the adjacent uses or substantially remove any of the amenity space of the parcel. Further, it is unlikely that shadowing from the roofline will negatively project onto adjacent properties and its presence would not encroach on the neighbours private amenity space.**
2. **The general purpose and intent of the Zoning By-Law is maintained as the increased encroachment is minor in nature and is of an appropriate scale.**
3. **The intent of the Official Plan is maintained as the subject parcel's use is within the permitted uses of the Urban Living Area / Built Boundary designation.**
4. **The proposal is desirable for the appropriate development and/or use of the land as the scale of the proposed deck will not create a negative precedent since the amenity area will be maintained and it will not affect the original intent of the building design.**
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.**

**And is subject to the following condition:**

1. **That the applicant obtains a building permit for the existing deck within 90 days to the satisfaction of the Chief Building Official.**

**CARRIED**

**FILE A11/2014P -  
U LUCCHETTA  
CONSTRUCTION  
LTD.**

(APPLICATIONS FOR  
MINOR VARIANCE)

**Purpose of the Application:**

The subject land is zoned R2 Residential 2 in accordance with Pelham Zoning By-law 1136(1987), as amended. The applicant is requesting relief of Section 14.2(e) to allow an interior side yard setback of 1.2 metres whereas 1.5 metres is required, and from Section 14.2(f) to allow an exterior side yard setback of 3.37 metres whereas 5 metres is required. Relief is requested to accommodate a single family residential dwelling.

**Representation:**

Rob Lucchetta, Agent represented on behalf of the application.

**Correspondence:**

Town of Pelham Community Planning & Development Report

- Appendices:
  - Town of Pelham Public Works
  - Town of Pelham Chief Building Official

**Comment:**

Mr. Lucchetta advised that the requested setbacks will accommodate homes similar to development on Brondi's Lane, also in Pelham. The variance is requested on the proposed lot to accommodate a model home, and Mr. Lucchetta will be requesting a Zoning By-law Amendment to accommodate the same side-yard setbacks throughout the entire subdivision.

**Resolution #CA20140708.1005**

Moved By: Member Hatt Second By: Member Lockey

**Application for relief of Section 14.2(e) to allow an interior side yard setback of 1.2 metres whereas 1.5 metres is required is hereby GRANTED; and**

**Application for relief of Section 14.2(f) to allow an exterior side yard setback of 3.37 metres whereas 5 metres is required is hereby GRANTED.**

This decision is based on the following reasons:

1. The variance is minor in nature as the interior and exterior side yard setbacks will be marginally adjusted from the zone requirements to accommodate infill development. The setbacks will not negatively impact on the adjacent neighbour to the east as the rear yard setback will be maintained.
2. The general purpose and intent of the Zoning By-Law is maintained as the reduction in the side yard setbacks are minor in nature and are of an appropriate scale.
3. The intent of the Official Plan is maintained as the subject parcel's use is within the permitted uses of the Urban Living Area / Built Boundary designation.
4. The proposal is desirable for the appropriate development and/or use of the land in that the reduced side yard setbacks will maintain the amenity area of the lot and will allow for the original intent of the building design.
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.

**CARRIED**

**FILE B7/2014P -  
FERNANDO  
HOMES  
CONSTRUCTION  
LTD.**

(APPLICATIONS FOR  
CONSENT)

**Purpose of the Application:**

Application is made for consent to convey 1334.76 square metres of land for single family residential use. 3,799 square metres of vacant land, shown as Part 1 on the drawing submitted, is to be retained for future development.

**Representation:**

Fred Fraraccio, Agent represented on behalf of the application.

**Correspondence:**

Town of Pelham Community Planning & Development Report

- Appendices:
  - Town of Pelham Public Works
  - Town of Pelham Chief Building Official

- Town of Pelham Corporate Services
- Niagara Peninsula Conservation Authority
- Lori McClay
- Diane & Joseph DeSapio
- Walter & Heather Northdrave
- William Volkwijn

**Comment:**

Mr. Fraraccio advised that the applicant purchased lands and wants to align Part 2 with rear lot to the south. The subject lot is serviced and the applicant wishes to build a single family home.

Joseph DiSapio of Pelham Street advised that he has no objections to the proposed lot line, which would be in line with his property. He questioned the development of Part 1. Mr. Fraraccio advised that Part 1 will be maintained by the owner and has access from Marylea Street. At this time, future development plans for Part 1 are not known.

Richard Scott of Bacon Lane stated that he is in support of the application for consent as the lot has been vacant for several years. He noted that he looks forward to the development occurring.

**Resolution #CA20140708.1006**

Moved By: Member Lockey    Second By: Member Hatt

**Application for consent to convey 1346 square metres of land, shown as Part 2 on the drawing submitted, being part of Lot 177, Part 1, RP 59R-13270 in the Town of Pelham is hereby GRANTED.**

**This decision is subject to the following conditions:**

1. **That the proponent be required to comply with the approved lot grading plan for Part 2 to the satisfaction of the Director of Public Works.**
2. **That the proponent will plant a tree and sod the boulevard in front of Part 2 fronting Bacon Lane to the satisfaction of the Director of Public Works.**
3. **That the proponent pave the driveway apron of Part 2 to the satisfaction of the Director of Public Works.**
4. **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.**
5. **That the final certification fee of \$350, payable to the Treasurer, Town of Pelham, be submitted to the Secretary-Treasurer.**

**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. **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.**

**CARRIED**



**MINUTES FOR  
APPROVAL**

**Resolution #CA20140708.1007**

Moved By: Member Hatt    Second By: Member Lockey

**THAT the minutes of the public hearing held on June 3rd, 2014 for the  
Town of Pelham Committee of Adjustment be approved as circulated.**

**CARRIED**

**ADJOURNMENT**

There being no further business, the Chair declared the hearing adjourned.