

Committee of Adjustment MINUTES

Committee of Adjustment Hearing October 6, 2015

Meeting Type : Committee of Adjustment Hearing

Date : Tuesday, October 06, 2015

Location : Town of Pelham Municipal Building - Council Chambers

Minutes

Attendance

Present were:

Wayne Lockey

John Klassen

James Federico

Acting Deputy Clerk

- Judy Sheppard

Town Clerk / Secretary Treasurer

- Nancy J. Bozzato

Applicants and Agents as Listed in the Minutes

Interested Citizens

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 p.m. 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.

Disclosure of Pecuniary Interest and General Nature Thereof

There were no disclosures of pecuniary interest by any of the hearing panel members present regarding any of the applications scheduled for hearing.

**Requests for
Withdrawal or
Adjournment**

There were no requests for withdrawal or adjournment by any of the applicants present.

**File A8/2015P -
Gary Groen**
(Applications for Minor
Variance)

Purpose of the Application:

The subject land is zoned Agricultural A in accordance with Pelham Zoning By-law No. 1136(1987), as amended.

Application is made for relief from Section 7.7(d) to facilitate construction of a detached garage for storage purposes, having a proposed height of 5.6 m (18.7 feet) to the mid-point of the pitched roof, whereas 3.7 m (12.14 feet) is permitted.

Representation:

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

Correspondence Received:

- Town of Pelham Planning Department
- Town of Pelham Building Department
- Niagara Peninsula Conservation Authority
- Sandra & Jim Jeffs?

Comments:

Mr. Groen offered no additional comments. No one in the audience offered comments on the application.

Member Klassen requested if any erosion fencing was required relating to the construction of the dwelling, to which Mr. Groen responded that the fencing was not required for the dwelling.

Resolution #CA20151006.1001

Moved By: John Klassen Second By: James Federico

Application for relief from Section 7.7(d) to facilitate construction of a detached garage for storage purposes, having a proposed height of 5.6 m (18.7 feet) to the mid-point of the pitched roof, whereas 3.7 m (12.14 feet) is permitted is hereby granted, subject to the following conditions:

1. THAT all necessary building permits are obtained prior to commencement of construction, to the satisfaction of the Chief Building Official;
2. THAT prior to the issuance of the building permit, the Chief Building Official obtain written confirmation that appropriate sediment and erosion controls shall be installed and maintained in good condition for the duration of the construction phase to ensure that muddy water shall not be permitted to discharge from the site to the satisfaction of the Niagara Peninsula Conservation Authority (NPCA);
3. THAT prior to issuance of the building permit, the Chief Building

Official obtain written confirmation that a Limit of Work fence has been installed along the 30 metre buffer of the wetland to clearly mark the area that must remain undisturbed, and that there shall be no storage or machinery or materials of any kind beyond the Limit of Work fencing, to the satisfaction of the NPCA;

4. THAT the NPCA be satisfied that there shall be no site alterations within the wetland or associated buffer; and
5. THAT prior to issuance of a final building inspection report/occupancy, all disturbed areas be re-stabilized to the satisfaction of the NPCA, and that the Chief Building Official be so advised.

The decision is based on the following reasons:

1. The variance is minor in nature as the height of the accessory building will not create a negative impact on adjacent properties as sufficient amenity space will be available around the structure for future maintenance;
2. The mature trees situated on the subject lands provide privacy between the subject lands and adjacent lots.
3. The general purpose and intent of the Zoning By-Law is maintained as the height increase is minor and of an appropriate scale, and the development is a permitted use within the Agricultural A Zone.
4. The intent of the Official Plan is maintained as the accessory building does not impact the Environmental Protection One designation and the use is permitted in the Good General Agricultural designation.
5. The proposal is desirable for the appropriate development and/or use of the land as the required setbacks for the accessory structure are in compliance with the by-law, thus the rural, residential character of the area is maintained.
6. This application is granted without prejudice to any other application in the Town of Pelham.
7. No objections were received from commenting agencies or abutting property owners, as the application states that the use of the building is intended for storage of personal goods and a trailer, and will not be used for commercial purposes.

Carried

**File A11/2015P -
Douglas &
Elizabeth
Baldwin**

(Applications for Minor
Variance)

Purpose of the Application:

The subject land is zoned Agriculture A in accordance with Pelham Zoning By-law No. 1136(1987), as amended.

Application is made for relief from Section 7.7(d) to facilitate construction of a detached garage having a proposed height of 4.57 m (15 feet) to the mid-point of the pitched roof, whereas 3.7 m (12.14

feet) is permitted.

Representation:

Mr. Douglas Baldwin, registered owner, appeared on behalf of this application.

- Town of Pelham Planning Department
- Town of Pelham Building Department
- Niagara Peninsula Conservation Authority

Comment:

Mr. Baldwin advised that he intends to construct a building of the same Victorian style as the existing dwelling, with the roof pitch to complement the dwelling resulting in a need for an increase in height.

Resolution #CA20151006.1002

Moved By: James Federico Second By: John Klassen

THAT Application A11/2015P on behalf of Douglas Baldwin & Elizabeth Baldwin for Minor Variance for relief from Section 7.7(d) to facilitate construction of a detached garage having a proposed height of 4.57 m (15 feet) to the mid-point of the pitched roof, whereas 3.7 m (12.4 feet) is permitted is hereby granted.

The decision is based on the following reasons:

1. The variance is minor in nature as the height is intended to be adjusted to accommodate construction of an accessory building for storage of personal good, and there does not appear to be a negative impact on adjacent properties.
2. The general purpose and intent of the Zoning By-Law is maintained as the proposal is of an appropriate scale in a rural residential area.
3. The intent of the Official Plan is maintained as the use is permitted in the Good General Agricultural designation and does not impact the Environmental Protection Three designation.
4. The proposal is desirable for the appropriate development and/or use of the land as proposed setbacks are in compliance with the By-law thus preserving the amenity area and minimizing shadowing onto adjacent 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.

Carried

**File B4/2015P -
Marilyn Potter &**

Purpose of the Application:

Application is made for consent to create a right-of-way in perpetuity

Gail Levay

(Applications for Consent)

over 113.5 square metres of vacant land, to the benefit of the abutting lot to the west known municipally as 145 Highway 20 East, for the establishment of a mutual right-of-way for ingress and egress, together with a right-of-way in perpetuity over 30.5 square metres of land (Parts 1 and 3) for said mutual ingress and egress. 2713 square metres of land (Part 2, 4, and 6) are to be retained for continued commercial use.

Application B5/2015P on behalf of Andrew Groen and Petronella Groen is being considered concurrently.

- Town of Pelham Planning Department
- Region of Niagara Development Services Department
- Star Tile Centre

Representation:

Jennifer Vida, Authorized Agent, in company with Ms. Gail Levay, represented the applications.

Comments:

Ms. Levay questioned who will be responsible for the easements in terms of snow removal. Ms. Vida indicated that the easements are required for the installation of traffic signals and for mutual access to properties. Ms. Levay noted that on February 23, 2015 comments submitted to the Town of Pelham Chief Administrative Officer raised some concerns, however Ms. Vida confirmed that this correspondence does not relate to the consent applications subject of this meeting.

Resolution #CA20151006.1003

Moved By: John Klassen Second By: James Federico

THAT application B4/2015P on behalf of Marilyn B. Potter and Gail M. Levay for consent to create a right-of-way in perpetuity over 113.5 square metres of vacant land, to the benefit of the abutting lot to the west known municipally as 145 Highway 20 East, for the establishment of a mutual right-of-way for ingress and egress be granted, subject to the following conditions:

Conditions:

1. THAT an easement in favour of the Regional Municipality of Niagara over Part 4 on the drawing appended to this Notice of Decision be provided;
2. THAT the required easement document for the intersection infrastructure works and maintenance be registered over Part 4 to the satisfaction of the Regional Municipality of Niagara;
3. THAT the Town of Pelham Director of Public Works be satisfied

that if any existing water, sewer or storm services branch from or through Part 4, that all necessary easement documents reflecting a service right-of-way be established to reflect the service right-of-way;

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 \$358, 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. There do not appear to be any negative impacts on adjacent uses or the community as a whole as a result of this approval.
3. No objections to this proposal were received from commenting agencies or neighbouring property owners.
4. 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

**File B5/2015P -
Andrew &
Petronella
Groen**

(Applications for Consent)

Purpose of the Application:

Application is made for consent to create a right-of-way in perpetuity over 30.5 square metres of land, to the benefit of the abutting lot to the east known municipally as 151 Highway 20 East, for the establishment of a mutual right-of-way for ingress and egress, together with a right-of-way in perpetuity over 113.5 square metres of land (Parts 2 and 4) for said mutual ingress and egress. 2730 square metres of land (Part 1, 3, and 5) are to be retained for continued commercial use.

Application B4/2015P on behalf of Marilyn Potter and Gail Levay is being considered concurrently.

Representation:

Jennifer Vida, Authorized Agent, appeared on behalf of this application.

- Town of Pelham Planning Department
- Town of Pelham Building Department
- Region of Niagara Development Services Department

Comments:

No additional comments were submitted by the applicant or agent.

Resolution #CA20151006.1004

Moved By: John Klassen Second By: James Federico

THAT application B5/2015P on behalf of Andrew Groen and Petronella Groen for consent to create a right-of-way in perpetuity over 30.5 square metres of land, to the benefit of the abutting lot to the east known municipally as 151 Highway 20 East, for the establishment of a mutual right-of-way for ingress and egress be granted, subject to the following conditions:

Conditions:

1. THAT an easement in favour of the Regional Municipality of Niagara over Part 3 on the drawing appended to this Notice of Decision be provided;
2. THAT the required easement document for the intersection infrastructure works and maintenance be registered over Part 3 to the satisfaction of the Regional Municipality of Niagara;
3. THAT the Town of Pelham Director of Public Works be satisfied that if any existing water, sewer or storm services branch from or through Part 3, that all necessary easement documents reflecting a service right-of-way be established to reflect the service right-of-way;
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 \$358, 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. There do not appear to be any negative impacts on adjacent uses or the community as a whole as a result of this approval.
3. No objections to this proposal were received from commenting agencies or neighbouring property owners.
4. 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.
- 5.

Carried

**File B9/2015P -
Hummel**

Purpose of the Application:

Application is made for consent to partial discharge of mortgage and

**Enterprises &
Rainer Hummel**
(Applications for Consent)

to convey 12880.1 square metres of vacant land, to be added to the abutting lands to the east known municipally as 65 Port Robinson Road. 1548.1 square metres of land (Part 2) with a dwelling known municipally as 59 Port Robinson Road is to be retained for continued residential use.

Applications B10/2015P and B11/2015P are being considered concurrently.

Representation:

Mr. Brent Larocque, The Larocque Group, authorized agent, appeared on behalf of this application.

Correspondence:

- Town of Pelham Planning Department
- Town of Pelham Building Department
- Niagara Peninsula Conservation Authority

Comments:

Mr. Larocque indicated that the applications will result in a land assembly to facilitate future development by Plan of Subdivision.

Resolution #CA20151006.1005

Moved By: James Federico Second By: John Klassen

THAT application B9/2015P on behalf of Hummel Properties Inc. and Rainer Hummel, for consent to partial discharge of mortgage and to convey 12880.1 sq. metres of vacant land, to be added to the abutting lands to the east known municipally as 65 Port Robinson Road, be granted subject to the following conditions:

Conditions:

1. Pursuant to Section 50(12) of the Planning Act, R.S.O. 1990, as amended, it is hereby stipulated that Section 50(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 east, 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 application for consent, files B10/2015 P and B11/2015P receive final certification of the Secretary-Treasurer concurrently.
3. That final approval for all necessary Zoning By-law amendments be obtained from the Town of Pelham, to the satisfaction of the

Director of Community Planning, Town of Pelham.

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 \$358, 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 with conditions fulfilled, will comply 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.

Carried

**File B10/2015P -
Hummel
Enterprises &
Rainer Hummel**
(Applications for Consent)

Resolution #CA20151006.1006

Moved By: James Federico Second By: John Klassen

THAT Application B10/2015P on behalf of Hummel Properties Inc. and Rainer Hummel for consent to partial discharge of mortgage and to convey 7917 sq. metres of vacant land (Part 1), to be added to the abutting lands to the west known municipally as 65 Port Robinson Road be granted subject to the following conditions:

Conditions:

1. Pursuant to Section 50(12) of the Planning Act, R.S.O. 1990, as amended, it is hereby stipulated that Section 50(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, 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 application for consent, files B9/2015 P and B11/2015P receive final certification of the Secretary-Treasurer concurrently.

3. That final approval for all necessary Zoning By-law amendments be obtained from the Town of Pelham, to the satisfaction of the Director of Community Planning, Town of Pelham.
4. That written confirmation be provided to the director of Public Works indicating that no existing water, sewer or storm services branch from or through the subject parcel to service other neighbouring properties including the dwelling on the remnant parcel, and that should there be an existing service a service right-of-way be established, if necessary, or the services relocated, to the satisfaction of the Director.
5. 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.
6. That the final certification fee of \$358, 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 with conditions fulfilled, will comply 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.

Carried

**File B11/2015P -
Sleek
Developments
Inc.**
(Applications for Consent)

Resolution #CA20151006.1007

Moved By: James Federico Second By: John Klassen

THAT Application B11/2015P on behalf of Sleek Developments Inc. for consent to partial discharge of mortgage and to convey 7686.2 sq. metres of land, to be added to the abutting lands to the west known municipally as 65 Port Robinson Road be granted subject to the following conditions:

Conditions:

1. Pursuant to Section 50(12) of the Planning Act, R.S.O. 1990, as amended, it is hereby stipulated that Section 50(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, 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 application for consent, files B9/2015 P and B10/2015P receive final certification of the Secretary-Treasurer concurrently.
3. That final approval for all necessary Zoning By-law amendments be obtained from the Town of Pelham, to the satisfaction of the Director of Community Planning, Town of Pelham.
4. That written confirmation be provided to the director of Public Works indicating that no existing water, sewer or storm services branch from or through the subject parcel to service other neighbouring properties including the dwelling on the remnant parcel, and that should there be an existing service a service right-of-way be established, if necessary, or the services relocated, to the satisfaction of the Director.
5. That the accessory building located on the subject parcel be removed or demolished to the satisfaction of the Chief Building Official, including all necessary demolition permits.
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.

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 with conditions fulfilled, will comply 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.

Carried

**File B13/2015P -
Todd & Michelle
Barber**

(Applications for Consent)

Purpose of the Application:

Application is made for consent to a right-of-way in perpetuity over 30.8 square metres of land, to the benefit of the abutting lot to the

south known as 1421 Pelham Street, for mutual ingress and egress purposes. 438.9 square metres of land (Parts 1 and 2) will be retained for continued commercial and proposed residential use. Applications B14/2015P, A9/2015P and A10/2015P are being considered concurrently.

Representation:

Mr. Todd Barber, registered owner, appeared on behalf of this application.

- Town of Pelham Planning Department
- Town of Pelham Building Department
- Fonthill Baptist Church

Comments:

Mr. Barber offered no additional comments relating to these applications.

Resolution #CA20151006.1008

Moved By: John Klassen Second By: James Federico

THAT Application B13/2015P on behalf of Todd Barber and Michelle Barber for consent to create a right-of-way in perpetuity over 30.8 sq. metres of land to the benefit of the abutting lot to the south known municipally as 1421 Pelham Street, for mutual ingress and egress purposes be granted, subject to the following conditions:

Conditions:

1. That written confirmation be provided to the director of Public Works indicating that no existing water, sewer or storm services branch from or through the subject parcel to service other neighbouring properties including 1421 and 1423 Pelham Street, and that should there be an existing service a service right-of-way be established.
2. That application for consent, file B14/2015P, receive final certification of the Secretary-Treasurer concurrently.
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 \$358, 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. 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.

Carried

**File B14/2015P -
McGill Turpel
Holdings**

(Applications for Consent)

Purpose of the Application:

Application is made for consent to a right-of-way in perpetuity over 171.1 square metres of land, to the benefit of the abutting lot to the north known municipally as 1423 Pelham Street, for mutual ingress and egress purposes. 581.94 square metres of land (Parts 3, 4 and 5) will be retained for continued commercial and residential use. Applications B13/2015P, A9/2015P and A10/2015P are being considered concurrently.

Representation:

Mr. Todd Barber, authorized agent, appeared on behalf of this application.

Correspondence:

- Town of Pelham Planning Department
- Town of Pelham Building Department
- Fonthill Baptist Church

Comment:

Mr. Barber offered no additional comment.

Resolution #CA20151006.1009

Moved By: John Klassen Second By: James Federico

THAT Application B14/2015P on behalf of McGill Turpel Family Holding Company (Pursuant to an Agreement of Purchase and Sale) for consent to create a right-of-way in perpetuity over 171.1 sq. metres of land, to the benefit of the abutting lot to the north known municipally as 1423 Pelham Street, for mutual ingress and egress purposes be granted subject to the following conditions:

Conditions:

1. THAT written confirmation be provided to the director of Public Works indicating that no existing water, sewer or storm services branch from or through the subject parcel to service other neighbouring properties including 1421 and 1423 Pelham Street, and that should there be an existing service a service right-of-way be established.
2. That application for consent, file B13/2015P, receive final certification of the Secretary-Treasurer concurrently.

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 \$358, 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. 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.

Carried

**File A9/2015P -
McGill Turpel
Holdings**

(Applications for Consent)

Purpose of the Application:

The subject land is zoned General Commercial in accordance with Pelham Zoning By-law No. 1136(1987), as amended.

Application is made for variances to facilitate construction of an addition to the commercial component of the building and to construct four (4) residential units.

Applications A10/2015P and B13/2015P and B14/2015P are being considered concurrently.

Representation:

Mr. Todd Barber, authorized agent, appeared on behalf of this application.

Correspondence:

- Town of Pelham Planning Department
- Town of Pelham Building Department
- Fonthill Baptist Church

Comment:

Mr. Barber noted that the Turpills have owned the property for approximately 10 years. Initially it was a post office, then a hardware store and then an antique store. As part of the downtown redevelopment, Mr. Barber was actively involved in the development of the various guidelines as part of his volunteer work on these various committees, providing him the opportunity to have knowledge of new initiatives. He noted they are looking forward to developing this property and to be landlords for the residential units above ground floor. The concerns regarding parking in the downtown have

been known, and he indicated that he has suggested a zero parking requirement in this area, noting this initiative is active in other communities.

The central business area in the downtown and lands are designated cannot be changed. Thus, if businesses build to the ideas adopted by this Council, it is necessary to identify what can be supported.

Some recent initiatives have put the Town's parking policies to the test, which has resulted in an effective parking plan. He noted that there are mixed opinions as to whether or not there are parking problems in the downtown. He indicated that at the present time, the parking for nearby establishments and his own have been addressed through mutual sharing amongst business owners. The height variance required is primarily relating to the rear elevations. The consent agreement addresses the access to parking for this application

Irv Cochran, Treasurer of the Fonthill Baptist Church, addressed the Committee. He noted that they are not against development. There is a nursery school at this site, however cars use the parking lot while nursery school parents are dropping off and picking up children. This results in parents dropping children off along Church Hill. He noted that they do not wish to install fencing or a gate around their parking lot, and there are times when people are free to use the parking while the nursery school is not operational. He suggested that the parking problem is getting worse and if this development reduces the required spaces there will be an additional overflow using the Church parking lot. He noted they have erected a sign that cars will be towed if parking unauthorized, which will be gradually enforced. He suggested that their concern is that more parking will take place in the church parking lot should this approval be obtained.

Mr. Barber reviewed the concerns. He stated that when he walks the downtown, he noticed there are often vacancies in the church parking lot. He imagines that the church parking lot is an oasis for parking, and although parking might be available in the downtown there are some challenges. He indicated that people consume their parking lot to shop in the downtown however they have never had to tow away.

The McGills have addressed some concerns regarding parking, by the erection of towing signs for unauthorized parking. He noted that the convenient parking spaces will be taken up first, however their parking is directed toward the back of the building. The brewery business will have parking dedicated to the rear, and the addresses will be on Pelham Town Square. All promotion and advertising will be toward the back of the building. He noted that within walking

distance there are several parking spaces available and he is hopeful that parking concerns for the church will not occur, and they do not wish to create conflict with the church. Apartment residents will have dedicated parking spaces in the rear of the building. Brewery parking will be off-site between 5:00 and 9:00 p.m. Mr. Cochran acknowledged that this plan appears that it might work, and he was hopeful that the parking issues will not increase for the church.

Mr. Barber described the existing and proposed apartment dwellings. He noted this will be similar to a development to the north on Pelham Street in the immediate vicinity in the central business area.

Member Klassen wondered what might happen if staff requirements increase, or that of the other businesses. Mr. Barber noted that any building expansion will be restricted by this development. The East Secondary lands will have an opportunity to conform to parking.

Member Klassen noted that several businesses have their own parking. Mr. Barber noted however that one downtown restaurant has no on-site parking available and has operated successfully for many years. Further, initiatives of private development must feed the rejuvenation of the downtown.

Member Federico noted that the use for the application is permitted, and expressed concern that in future these businesses may no longer exist and the demand for increased parking may increase. Mr. Barber noticed the specifics in the report, and the parking was varied for the maximum use of the property. Discussion ensued regarding the suggested condition to limit the uses of the building. Mr. Barber noted that he was surprised at the requested condition, noting that the variance calculation was made on the worst case scenario and worst occupancy possible. He suggested that the town does not need to control the uses through this condition.

Chair Lockey suggested that it may not be considered a minor variance given the reduction in the number of spaces requested. Mr. Barber noted that a new zoning by-law is being developed, which may indicate a zero parking parking requirement. He noted that the by-law has been impossible to meet. He suggested that prosperity for businesses is needed, and to wait for the new zoning by-law is not practical for his business purposes.

Ms. McGill stated that with only one car will be permitted for the tenants and given that the development will change from three commercial uses to two the parking demand will be reduced.

Chair Lockey admired the proposal, but still had reservations regarding the parking, acknowledging that the amenity area can be addressed.

Resolution #CA20151006.1010

Moved By: James Federico Second By: John Klassen

THAT Application A9/2015P on behalf of McGill Turpel Family Holding Company Pursuant to Agreement of Purchase & Sale for Minor Variance be approved subject to the following conditions:

- 1. THAT the uses of the subject parcel are limited to an office, micro-brewery, dry-cleaning establishment and five residential units above commercial units, so as to avoid conflicts with parking on the site; and**
- 2. THAT all necessary building permits are obtained prior to construction commencing, to the satisfaction of the Chief Building Official.**
- 3. THAT designated parking spaces be provided for residential tenants of the building, to the satisfaction of the Director of Planning.**

The decisions are based on the following reasons:

- 1. Application for relief from Section 20.2(h) to permit a building height of 11.05 metres whereas 10.5 metres is required:**
 1. The variance is minor in nature as the height will be marginally adjusted to facilitate construction of a parapet to mask the mechanical equipment on the rooftop.
 2. The general purpose and intent of the Zoning By-Law is maintained as the variance is of an appropriate scale given the location of the parcel, and the proposal fits within the Downtown Fonthill area.
 3. The intent of the Official Plan is maintained as the proposed redevelopment of the site and proposed uses are permitted in the Downtown designation.
 4. The proposal is desirable for the appropriate development and/or use of the land as the building will be more appealing thus improving the streetscape along Pelham Street.
 5. This application is granted without prejudice to any other application in the Town of Pelham.
- 2. Application for relief from Section 6.9(c)(ii) to permit Zero (0) loading spaces whereas one (1) loading space is required:**
 1. The variance is minor in nature as the proposed parking aisle

can be utilized as a loading area during off-peak hours, as well as the Pelham Street on-street parking.

2. The general purpose and intent of the Zoning By-Law is maintained, given that space is limited in the Downtown area due to the built form and smaller lot sizes.
3. The intent of the Official Plan is maintained.
4. The proposal is desirable for the appropriate development and/or use of the land as the built-form of the Downtown area does not provide sufficient space to accommodate a designated loading area for each building.
5. This application is granted without prejudice to any other application in the Town of Pelham.

3. Application for relief from Section 6.16(i)(a) to permit seven (7) parking spaces whereas 24 parking spaces are required:

1. The variance is minor in nature, as the conditions of approval ensure that the building will be limited to use as an office, micro-brewery, dry-cleaning establishment and residential units above the upper level of the building.
2. The general purpose and intent of the Zoning By-Law is maintained, as a condition of approval requires that designated parking spaces be assigned for the residential tenants so as to not create a conflict between the residential and commercial uses.
3. The intent of the Official Plan is maintained as the parking plan appears to conform with the Policies of the Official Plan.
4. The proposal is desirable for the appropriate development and/or use of the land given the restricted uses of the building and the dedicated residential parking.
5. This application is granted without prejudice to any other application in the Town of Pelham.

4. Application for relief from Section 19.3(c)(as required by 20.4) to permit zero (0) amenity area whereas 275 square metres is required for four(4) units:

1. The variance is minor in nature as there is a concrete patio and garden area proposed at the rear of the building to serve as an amenity area for residential tenants, and the nearby publicly owned parks are situated within close proximity.
2. The general purpose and intent of the Zoning By-Law is maintained, as there are proposed patio and garden areas proposed and private balcony areas for each apartment unit.
3. The intent of the Official Plan is maintained due to the close proximity to public spaces which can be utilized as amenity areas for the residential tenants.

4. The proposal is desirable for the appropriate development and/or use of the land as the downtown area creates a pedestrian-friendly environment in which residential tenants can enjoy the streetscape.
5. This application is granted without prejudice to any other application in the Town of Pelham.

Carried

**File A10/2015P -
Todd & Michelle
Barber**

(Applications for Consent)

Purpose of the Application:

The subject land is zoned General Commercial in accordance with Pelham Zoning By-law No. 1136(1987), as amended.

Application is made for variances to facilitate construction of an addition to the commercial component of the building and to construct five (5) residential units above.

Applications A9/2015P and B13/2015P and B14/2015P are being considered concurrently.

Representation:

Mr. Todd Barber, authorized agent, appeared on behalf of this application.

Correspondence:

- Town of Pelham Planning Department
- Town of Pelham Building Department
- Fonthill Baptist Church

Comment:

Comments were addressed in previous application.

Resolution #CA20151006.1011

Moved By: James Federico Second By: John Klassen

THAT Application A10/2015P on behalf of Todd Barber and Michelle Barber for Minor Variance Approval of all variances pertaining to File A10/2015P be granted, subject to the following conditions:

1. **THAT the uses of the subject parcel are limited to an office, micro-brewery and residential units above commercial units, so as to avoid conflicts with parking on the site; and**
2. **THAT all existing openings along the south side of the building be addressed for maximum allowable area of unprotected openings in exterior walls to the satisfaction of the Chief Building Official;**
3. **THAT all necessary building permits be obtained prior to commencement of construction; and**

4. THAT designated parking spaces be provided for residential tenants of the building, to the satisfaction of the Director of Planning.

The decisions are based on the following reasons:

1. Application for relief from Section 20.2(c) to permit a lot coverage of 52% whereas 40% is permitted is hereby:

1. The variance is minor in nature as the parcel is an undersized lot of record which limits expansion of the building, however as the parcel is within the Downtown area the increase in lot coverage is of an appropriate scale and maintains the area character.
2. The general purpose and intent of the Zoning By-Law is maintained as the variance is of an appropriate scale given the location of the parcel, and the proposal fits within the Downtown Fonthill area.
3. The intent of the Official Plan is maintained as the proposed redevelopment of the site and proposed uses are permitted in the Downtown designation.
4. The proposal is desirable for the appropriate development and/or use of the land as the lot coverage value will be marginally adjusted to allow for expansion of a mixed use building, surrounded by similar lots some of which also exceed the lot coverage limitations.
5. This application is granted without prejudice to any other application in the Town of Pelham.

2. Application for relief from Section 20.2(h) to permit building height for 12.15 metres whereas 10.5 metres is required is hereby:

1. The variance is minor in nature as the height will be marginally adjusted to facilitate construction of a parapet to mask the mechanical equipment on the rooftop.
2. The general purpose and intent of the Zoning By-Law is maintained as the variance is of an appropriate scale given the location of the parcel, and the proposal fits within the Downtown Fonthill area.
3. The intent of the Official Plan is maintained as the proposed redevelopment of the site and proposed uses are permitted in the Downtown designation.
4. The proposal is desirable for the appropriate development and/or use of the land as the building will be more appealing thus improving the streetscape along Pelham Street.
5. This application is granted without prejudice to any other application in the Town of Pelham.

3. Application for relief from Section 6.9(c)(ii) to permit Zero

(0) loading spaces whereas one (1) loading space is required:

1. The variance is minor in nature as the proposed parking aisle can be utilized as a loading area during off-peak hours, as well as the Pelham Street on-street parking.
2. The general purpose and intent of the Zoning By-Law is maintained, given that space is limited in the Downtown area due to the built form and smaller lot sizes.
3. The intent of the Official Plan is maintained.
4. The proposal is desirable for the appropriate development and/or use of the land as the built-form of the Downtown area does not provide sufficient space to accommodate a designated loading area for each building.
5. This application is granted without prejudice to any other application in the Town of Pelham.

4. Application for relief from Section 6.16(i)(a) to permit seven (7) parking spaces whereas 24 parking spaces are required:

1. The variance is minor in nature, as the conditions of approval ensure that the building will be limited to use as an office, micro-brewery, and residential units above the upper level of the building.
2. The general purpose and intent of the Zoning By-Law is maintained, as a condition of approval requires that designated parking spaces be assigned for the residential tenants so as to not create a conflict between the residential and commercial uses.
3. The intent of the Official Plan is maintained as the parking plan appears to conform with the Policies of the Official Plan.
4. The proposal is desirable for the appropriate development and/or use of the land given the restricted uses of the building and the dedicated residential parking.
5. This application is granted without prejudice to any other application in the Town of Pelham.

5. Application for relief from Section 19.3(c)(as required by 20.4) to permit zero (0) amenity area whereas 275 square metres is required for four(4) units:

1. The variance is minor in nature as there is a concrete patio and garden area proposed at the rear of the building to serve as an amenity area for residential tenants, and the nearby publicly owned parks are situated within close proximity.
2. The general purpose and intent of the Zoning By-Law is maintained, as there are proposed patio and garden areas proposed and private balcony areas for each apartment unit.
3. The intent of the Official Plan is maintained due to the close

proximity to public spaces which can be utilized as amenity areas for the residential tenants.

4. The proposal is desirable for the appropriate development and/or use of the land as the downtown area creates a pedestrian-friendly environment in which residential tenants can enjoy the streetscape.
5. This application is granted without prejudice to any other application in the Town of Pelham.

Carried

Minutes for Approval

Resolution #CA20151006.1012

Moved By: John Klassen Second By: James Federico

MOVED THAT the minutes of the Committee of Adjustment Hearing 6/2015 held on 2015/09/09 be adopted as printed, circulated and read.

Carried

Resolution #CA20151006.1013

Moved By: John Klassen Second By: James Federico

MOVED THAT the minutes of the Committee of Adjustment Hearing 5/2015 held on 2015/08/05 be adopted as printed, circulated and read.

Carried

Adjournment

Resolution #CA20151006.1014

Moved By: John Klassen Second By: James Federico

The Business of the Committee being concluded, it was moved that the meeting do now adjourn.

Carried

B. DiMartile, Chair

Nancy J. Bozzato, Town Clerk/Secretary-Treasurer

Date Approved

Hearing Chair