

## Committee of Adjustment AGENDA

CoA-08/2017

August 1, 2017

4:00 pm

Town of Pelham Municipal Office - Council Chambers

20 Pelham Town Square, Fonthill

Pages

1. **Attendance**
2. **Call to Order, Declaration of Quorum and Introduction of Committee and Staff**
3. **Disclosure of Pecuniary Interest and General Nature Thereof**
4. **Requests for Withdrawal or Adjournment**
5. **Applications for Minor Variance**
  - 5.1 **File A26/2017P - Edward Morley** 1
    1. Town of Pelham Planning Department
    2. Town of Pelham Building Department
    3. Town of Pelham Public Works Department - Engineering
    4. Town of Pelham Fire & By-law Department
  - 5.2 **File A27/2017P - Costiano Developments** 9
    1. Town of Pelham Planning Department
    2. Town of Pelham Building Department
    3. Town of Pelham Public Works Department - Engineering
    4. Town of Pelham Fire & By-law Department
    5. NPCA Comments

**6. Applications for Consent**

None

**7. Minutes for Approval**

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**7.1 Committee of Adjustment Hearing Minutes - June 6, 2017**

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**8. Adjournment**

August 1, 2017

Mrs. Nancy J. Bozzato, Secretary Treasurer  
Committee of Adjustment  
Town of Pelham  
Fonthill, ON L0S 1E0

**Re: Minor Variance Application A26/2017P (E. Morley)**  
**1119 Pelham Street, Pelham**  
**Part of Township Lot 177, RP 59R-12409; Part 4**  
**Roll No. 2732 030 019 05700**

The subject land is located on the east side of Pelham Street, lying south of Spruceside Crescent, being Part of Township Lot 177, RP 59R-12409; Part 4 and known municipally as 1119 Pelham Street in the Town of Pelham.

The subject land is zoned 'Residential 1' (R1) in accordance with Pelham Zoning By-law 1136 (1987), as amended. The minor variance application requests relief from:

- **Section 6.1 c) "Max Accessory Building Height"** seeking 4.6m whereas 3.7m is allowed;
- **Section 6.1 d) "Max Accessory Building Lot Coverage"** seeking 11.5% whereas 10% is allowed.

Relief is sought to facilitate construction of a detached garage.

### **Applicable Planning Policies**

#### Provincial Policy Statement (PPS), 2014

The subject parcel is located in the 'Settlement Area' according to the Provincial Policy Statement (PPS).

Policy 1.1.3.1 states that settlement areas shall be the focus of growth and their vitality and regeneration shall be promoted.

#### Growth Plan for the Greater Golden Horseshoe, 2017

The subject parcel is located within a 'Settlement Area' according to the Growth Plan. No direct policies of the Growth Plan speak to uses such as accessory buildings.

#### Niagara Regional Official Plan (Consolidated, August 2014)

The Regional Official Plan designates the subject parcel as 'Built-up Area' within the Urban Area Boundary.

Policy 11.A.2 states that the Region encourages the development of attractive, well designed residential development that:

- j) Creates or enhances an aesthetically pleasing and functional neighbourhood.

Pelham Official Plan, 2014

The Town Official Plan designates the subject land as 'Urban Living Area' / Built Boundary. Policy A2.3.2 Urban Character Objectives are to respect and enhance the character of existing residential neighbourhoods and ensure that all applications for development are physically compatible with scale of the surrounding neighbourhood.

Town Zoning By-law Number 1136 (1987)

The Zoning By-law identifies the subject parcel as 'Residential 1' (R1).

Section 6.1 Requirements for buildings and structures accessory to dwellings

- |                            |       |
|----------------------------|-------|
| c) Maximum Building Height | 3.7m  |
| Request:                   | 4.6m  |
| d) Maximum Lot Coverage    | 10%   |
| Request                    | 11.5% |

The Committee of Adjustment, in Section 45 (1) of the *Planning Act*, may authorize a minor variance from the provisions of the by-law, subject to the following considerations:

Minor Variance Test	Explanation
1. The variance is minor in nature.	<ul style="list-style-type: none"> <li>Increasing the accessory building height to 4.6m is minor given the site context and the orientation being located in the rear yard. No negative impacts are anticipated by the community because a large hedge row acts to buffer the lots to the east. The neighbours to the north and south have not raised any objections to the increase in height proposed.</li> <li>The proposed accessory lot coverage of 11.5% is minor overall because the single detached residential lot is fairly large for an urban area. The variance can be accommodated with minimal impact and no adverse impacts are anticipated.</li> </ul>
2. The variance is desirable for the development or use of the land.	<ul style="list-style-type: none"> <li>The variance request to increase the accessory building height is desirable for the property because it will allow the owner to install a car hoist and improve storage potential.</li> <li>The variance to increase accessory lot coverage is desirable for the property because it will offer reasonable flexibility in the applicant's design options while maintaining a large rear yard amenity area.</li> </ul>
3. The variance maintains the general intent and purpose of the Official Plan.	<ul style="list-style-type: none"> <li>The proposed use of a building accessory to a single detached house is permitted in the 'Urban Living Area / Built Boundary' designation of the Official Plan and the policy does permit uses which are compatible with the neighbourhood. The increase in accessory building height</li> </ul>

From the Department of



	<p>will not compromise the objective of the Official Plan.</p> <ul style="list-style-type: none"> <li>The proposed accessory lot coverage maintains the general intent of the Official Plan in that no negative impacts will be created for any natural heritage feature or neighbouring properties.</li> </ul> <p>The variances are appropriate given the site's urban context and meet the general intent of the Town Official Plan policies.</p>
<p>4. The variance maintains the general intent and purpose of the Zoning By-law.</p>	<ul style="list-style-type: none"> <li>The height of the proposed detached garage to 4.6m is appropriate given the urban context and still ensures that the dwelling (and neighbouring dwellings) will be maintained as the principle uses of the land, considering their dominating height and / or orientation, as the case may be. Ample amount of open space is available on the site, thus the height will not adversely impact the urban residential nature of the lot or the surrounding community.</li> <li>Increasing the maximum accessory lot coverage maintains the general intent of the Zoning By-law in that adequate open space remains and will not detract from the rear yard amenity area of the subject land, abutting land owners and storm water runoff will be required to be contained on the property as per Town standards.</li> </ul> <p>The variances maintain the intent of the Zoning By-law with respect to accessory building massing, siting and lot coverage.</p>

On July 12<sup>th</sup> 2017, a notice was circulated to agencies directly affected by the proposed application including internal Town departments (i.e. Public Works, Building, etc.) and all assessed property owners within 60 metres of the property's boundaries.

To date, the following comments have been received:

- Public Works Department (July 20, 2017)
  - See conditions.
- Fire Department (July 13, 2017)
  - No comments.
- Building Department (July 25, 2017)
  - All necessary permits are required prior to construction commencing.

No comments were received from the public.

### Planning Comments

Planning staff note that the property is 1207m<sup>2</sup> in land area, located in central Fonthill and is surrounded by the following:

- North – Single detached residential
- East – Single detached residential
- South – Single detached residential
- West – Single detached residential

Staff visited the neighbourhood and inspected the subject site (Figure 1). The owner has no intention to remove the large tree to the rear of the property but does note that several small apple trees will be required to be cut down to accommodate the new garage. The owner is a hobby car enthusiast and is still bound by the Accessory Building provisions (Section 6.1) of the Zoning By-law which prohibit the use of an accessory building for gain or profit.

Figure 1: Subject land



Planning staff is of the opinion that the proposal is reasonable given the community setting, and because of how the massing, scale and orientation of the proposed accessory building is secondary to, and located to the rear of the existing dwelling. Therefore, increasing the allowable accessory building lot coverage and increasing the height will not negatively affect any neighbouring properties as significant open amenity space remains for the owners and reasonable spatial separation is maintained through setbacks and storm water runoff shall be contained on-site.

The property falls within the NPCA (Niagara Peninsula Conservation Authority) Screening Area, however, the proposed garage is located outside of the Regulation Lands. No comments were received by the NPCA.

Planning Staff is of the opinion that the application meets the four minor variance tests laid out by the *Planning Act*. The application is consistent with Provincial policies, the Regional Official Plan, and conforms to the general intent of the Town's Official Plan and Zoning By-law.

The authorization of the minor variance is not expected to generate negative impacts for adjacent uses or the community at large. Consequently, Planning Staff recommend that Application File Number A26/2017P be **approved** subject to the following:

THAT the applicant

- Submit an updated drawing indicating that no downspouts associated with the proposed garage will be directed towards neighbouring property lines as to allow the remaining sodded area of the property to absorb this added run-off prior to entering the swale and storm system of the Tanner Estates subdivision.

Submitted by,



Curtis Thompson  
Planner, B.URPI

Reviewed by,

Barb Wiens, MCIP, RPP

Director/ Community Planning & Development

**File:** A26/2017P

July 25, 2017

**Address:** 1119 South Pelham Rd., Pelham

**Owner:** Edward Morley

Nancy Bozzato  
Town Clerk/Secretary-Treasurer

The Building Department offers the following comment,

- All necessary permits are required prior to construction commencing.

Belinda Menard  
Building Intake/Plans Examiner  
Community Planning & Development



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## **Memorandum**

### **Public Works Department - Engineering**

DATE: July 20, 2017  
TO: Curtis Thompson, Planner  
CC: Nancy J. Bozzato , Clerk; Andrea Clemencio, Director of Public Works & Utilities  
FROM: Matt Sferrazza, Engineering Technologist  
RE: File A26/2017P  
1119 Pelham Street

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Public Works has completed a review of the variance application A26/2017P seeking relief to permit the following variances:

- Maximum Height – seeking 4.6m whereas 3.7m is allowed
- Lot Coverage – seeking 11.7% whereas 10% is required

The owner is seeking relief to facilitate construction of a detached garage.

It is noted that as part of the Tanner Estates subdivision, that was constructed adjacent to the rear of the property, rear yard swales and catch basins were installed in order to take in and manage storm run-off. Drainage area plans indicate that this property was included for discharging into this system.

Public Works has the following proposed conditions:

- That the applicant submits an updated drawing indicating that no downspouts, associated with the proposed garage, will be directed towards neighbouring property lines as to allow the remaining sodded area of the property to absorb this added run-off prior to it entering the swale and storm system of the Tanner Estates subdivision.

## Judy Sheppard

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**From:** William Underwood  
**Sent:** Thursday, July 13, 2017 11:30 AM  
**To:** Nancy Bozzato  
**Cc:** Sarah Leach; Judy Sheppard  
**Subject:** File A26/2017P

Hi Nancy,

Fire has no comments for the 1119 South Pelham Road variance.

Will



**William Underwood**  
*Fire Prevention Officer*  
**Fire & By-Law Services**

**e: wunderwood@pelham.ca**  
**p: 905.892.2607 x202**  
**c: 905.327.0402**  
**pelham.ca**

177 Highway 20  
P.O. Box 323  
Fonthill, ON L0S

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August 1, 2017

Mrs. Nancy J. Bozzato, Secretary Treasurer  
Committee of Adjustment  
Town of Pelham  
Fonthill, ON L0S 1E0

**Re: Minor Variance Application A27/2017P (Costiano Developments Inc.)  
28 Philmori Boulevard, Pelham  
Plan 59M-403, Lot 121  
Roll No. 2732 020 010 03521**

The subject land is located on the east side of Philmori Boulevard, lying north of Marlene Stewart Drive, which is situated between Lookout Street and Haist Street, being Lot 121 in Plan 59M-403, and known municipally as 28 Philmori Boulevard in the Town of Pelham.

The subject land is zoned 'Residential 1-185' (R1-185) in accordance with Pelham Zoning By-law 1136 (1987), as amended by By-law No. 3325 (2012). The minor variance application requests relief from:

- **Section 30. (Exceptions) 185. (k) "No structures, including decks, shall be permitted within 15m of the rear lot line"** to allow a 12'x12' deck to be situated 11.5m from the rear property line.

### **Applicable Planning Policies**

Provincial Policy Statement (PPS), 2014

The lands are located within the 'Settlement Area' according to the Provincial Policy Statement.

Growth Plan for the Greater Golden Horseshoe, 2017

No direct policies of the Growth Plan speak to uses such as decks or patios.

Regional Official Plan (Consolidated, August 2014)

The Regional Official Plan designates the subject parcel as 'Designated Greenfield Area' within the Urban Area Boundary.

Policy 11.A.2 states that the Region encourages the development of attractive, well designed residential development that:

- j) Creates or enhances an aesthetically pleasing and functional neighbourhood.

Town Official Plan, 2014

The subject land is located within the 'North West Fonthill Secondary Plan' area of the Town Official

Plan and designated 'Low Density Residential – Special Policies' which permits single detached dwellings on large lots.

Town Zoning By-law Number 1136 (1987)

The Town of Pelham's Zoning By-law identifies the subject parcel as 'Residential 1-185' (R1-185).

Section 30. (Exceptions) 185. Regulation for dwellings:

- k) Notwithstanding any provisions of Zoning By-law No. 1136 (1987) to the contrary, no buildings or structures, including but not limited to, storage sheds, garages, pool houses, swimming pools, decks and gazebos, shall be permitted within 15m of the rear lot line.

Request: 11.5m

The Committee of Adjustment, in Section 45 (1) of the *Planning Act*, may authorize a minor variance from the provisions of the by-law, subject to the following considerations:

Minor Variance Test	Explanation
1. The variance is minor in nature.	Reducing the 15m rear yard setback exclusion for structures to 11.5m appears minor overall due to the deck being small, attached to the house and upholding the 7.5m stable top-of-bank setback.
2. The variance is desirable for the development or use of the land.	The variance is desirable for the subject land because the rear yard amenity area is essentially maintained but would be enhanced due to the addition of a 12x12' deck.
3. The variance maintains the general intent and purpose of the Official Plan.	It is the intent of the Official Plan to permit dwellings units in an environmentally sound manner, including the protection of the interpretive and scenic values of the surrounding landscape. The requested variance will have minimal impact on the landscape and meets the intent of the Official Plan.
4. The variance maintains the general intent and purpose of the Zoning By-law.	The variance maintains the purpose of the Zoning By-law because a sufficient setback is maintained to the woodland and stable top-of-bank.

On June 30<sup>th</sup> 2017, a notice was circulated to agencies directly affected by the proposed application including internal Town departments (Public Works, Building, etc.) and all assessed property owners within 60 metres of the property's boundaries.

To date, the following comments have been received:

- Building Department (July 18, 2017)
  - All necessary permits are required prior to construction commencing.
- Public Works Department (July 24, 2017)
  - No comments.
- Niagara Peninsula Conservation Authority (July 18, 2017)
  - Conducted site visit and determined that due to the minor encroachment and minor nature of the proposed deck, NPCA staff are satisfied that it will not negatively impact the adjacent regulated features due to the following reasons:
    - The proposed deck will be outside of the NPCA's typical setback of 7.5m

- from a steep slope;
  - NPCA staff determined that a 5m buffer from the woodland is sufficient in this case, which the proposal meets; and
  - The proposal is relatively minor in nature.
- Supportive of proposal.

No comments were received from the public.

### Planning Comments

Planning Staff visited the site's neighbourhood and don't foresee any adverse impacts to the neighbourhood as a result from this minor variance. The overall scale of the proposed (12'x12') deck, as shown on the site plan is small and will not negatively impact the woodland, be compromised due to the nearby top-of-bank / steep slope, obstruct lot drainage operations, or the enjoyment of the rear yard.

Planning Staff is of the opinion that the application meets the four minor variance tests laid out by the Planning Act. The subject application is consistent with Provincial policies, the Regional Official Plan, and conforms to the general intent of the Town's Official Plan and Zoning By-law.

The authorization of the minor variance is not expected to generate negative impacts on adjacent uses and on the community at large. Consequently, Planning Staff recommend that Application File Number A27/2017P **be approved**.

Submitted by,



Curtis Thompson  
Planner, BURPI

Reviewed by,

Barb Wiens, MCIP, RPP  
Director of Community Planning &  
Development

**File:** A27/2017P

July 18, 2017

**Address:** 28 Philmori Blvd., Pelham

**Owner:** Costiano Developments

Nancy Bozzato  
Town Clerk/Secretary-Treasurer

The Building Department offers the following comment,

- All necessary permits are required prior to construction commencing.

Belinda Menard  
Building Intake/Plans Examiner  
Community Planning & Development

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## Memorandum

### Public Works Department - Engineering

DATE: July 24, 2017  
TO: Barb Wiens, Planner  
CC: Nancy J. Bozzato , Clerk; Andrea Clemencio, Director of Public Works & Utilities  
FROM: Tolga Aydin, Engineering Technologist  
RE: File A27/2017P  
28 Philmori Boulevard

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Public Works has completed a review of the minor variance application A27/2017P for relief of Pelham Zoning By-Law 1136(1987) Section 185(K). The application is made to seek relief from Section 185(K) exemptions which states that there shall be no buildings or structures including decks permitted within 15 meters of the rear lot line. The applicant is requesting relief to permit a rear yard setback distance of 11.5 meters to accommodate a rear deck.

Public Works has the no comments.

## Judy Sheppard

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**From:** William Underwood  
**Sent:** Tuesday, July 04, 2017 12:11 PM  
**To:** Nancy Bozzato  
**Cc:** Judy Sheppard  
**Subject:** File A27/2017P

Hi Nancy,

Fire has no comments for the variance File A27/2017P A.K.A. 28 Philmori.

Will



**William Underwood**  
*Fire Prevention Officer*  
**Fire & By-Law Services**

**e: wunderwood@pelham.ca**  
**p: 905.892.2607 x202**  
**c: 905.327.0402**  
**pelham.ca**

177 Highway 20 West  
P.O. Box 323  
Fonthill, ON L0S 1E0

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## Sarah Leach

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**From:** Sarah Mastroianni <smastroianni@npca.ca>  
**Sent:** Tuesday, July 18, 2017 10:31 AM  
**To:** Sarah Leach; Judy Sheppard; Nancy Bozzato  
**Subject:** A27/2017P

Good Morning,

NPCA staff have reviewed the above noted application to reduce the rear yard setback from 15m to 11.5m to allow for a rear deck.

NPCA staff conducted a site visit to the property and have determined that due to the minor encroachment and minor nature of the proposed development (rear deck), NPCA staff are satisfied that the proposed rear deck will not negatively impact the adjacent regulated features due to the following reasons:

- The proposed deck will be outside of the NPCA's typical setback of 7.5m from a steep slope;
- NPCA staff determined that a 5m buffer from the woodland is sufficient in this case, this proposal meets this setback; and
- The proposal is relatively minor in nature.

Given the above, NPCA staff are supportive of this proposal.

Please contact me with any questions.

**Sarah Mastroianni**  
**Watershed Planner**  
*Niagara Peninsula Conservation Authority*  
*250 Thorold Road West, 3rd Floor*  
*Welland, Ontario L3C 3W2*  
*Phone: 905 788 3135 (ext. 249)*  
*Fax: 905 788 1121*  
*email: [smastroianni@npca.ca](mailto:smastroianni@npca.ca)*

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**From:** Sarah Leach [<mailto:SLeach@pelham.ca>]  
**Sent:** Friday, June 30, 2017 2:13 PM  
**To:** Sarah Mastroianni <[smastroianni@npca.ca](mailto:smastroianni@npca.ca)>; [rowcentre@bell.ca](mailto:rowcentre@bell.ca); [devtplanningapplications@niagararegion.ca](mailto:devtplanningapplications@niagararegion.ca); [richard.wilson@niagararegion.ca](mailto:richard.wilson@niagararegion.ca)  
**Subject:** Town of Pelham - Notice of Hearing

Good afternoon,

Please find attached the notice of hearing for Pelham minor variance file A27/2017P.

Kind Regards,

Sarah

**Meeting #:** CoA-06/2017  
**Date:** Tuesday, June 6, 2017  
**Time:** 4:00 pm  
**Location:** Town of Pelham Municipal Office - Council Chambers  
 20 Pelham Town Square, Fonthill

**Members Present** James Federico  
 Wayne Lockey  
 John Klassen

**Staff Present** Nancy Bozzato  
 Judy Sheppard

**1. Attendance**

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

Noting that a quorum was present, Chair 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.

**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 withdrawal or adjournment.

**5. Applications for Minor Variance**

**5.1 File A20/2017P - Shawn Evans and Julie Evans**

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 of section 7.7(a) to allow a lot coverage of 3% whereas 1% is permitted for accessory structures, provided the overall lot coverage does not exceed 10%. In addition, relief from Section 7.7(d) is sought to permit a building height for the accessory building of 6.5 metres whereas 3.7 metres is permitted, to facilitate construction of a detached garage.

Representation:

Shawn and Julie Evans, registered owners, 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 & Utilities Department
5. Niagara Region Comments

Comments:

The owners, Shawn and Julie Evans, had no comments.

Public Comments

There were no comments received from the public.

Members Comments

The Members had no comments.

**Moved By James Federico**

**Seconded By John Klassen**

**Application for relief of Section 7.7(a) is requested to permit a lot coverage of 3% whereas 1% is permitted for accessory structures, provided the overall lot coverage does not exceed 10%, is hereby: GRANTED**

**Application for relief of Section 7.7(d) is requested to permit a building height for the accessory building of 6.5 metres whereas 3.7 metres is permitted, is hereby: GRANTED**

**The above decisions are based on the following reasons:**

- 1. The variance is minor in nature in that the variance will have no adverse impacts.**
- 2. The general purpose and intent of the Zoning By-Law is maintained in that adequate open space remains and will not bother the existing septic field.**
- 3. The intent of the Official Plan is maintained in that no negative impacts will be created for any natural heritage feature or neighbouring properties.**
- 4. The proposal is desirable for the appropriate development and/or use of the land given the flexibility that is provided in terms of property usage.**
- 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 decisions are subject to the following conditions:**

- 1. That all necessary building permits are required prior to construction commencing for the new addition, to the satisfaction of the Chief Building Official.**

**Carried**

## **5.2 File A21/2017P - Costiano Developments Inc**

Purpose of Application:

The subject land is zoned Residential "R" in accordance with Pelham Zoning By-law 1136(1987), as amended. The applicant is seeking relief of section 30 Exemptions, 238(I) to allow a minimum ground floor area of 120 square metres whereas 210 square metres is required, to facilitate construction of a single two-storey dwelling.

Representation:

Fred Fraraccio, Kaisma Build Group Inc., 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 & Utilities Department
4. Town of Pelham Fire & By-law Department

Comments:

Mr. Fraraccio requested that the Members consider refunding the applicant the Minor Variance application fee due to an error with the application process.

Public Comments

There were no comments received from the public.

Members Comments

The Members agreed to refund the Minor Variance application fee.

**Moved By John Klassen**

**Seconded By James Federico**

**Application for relief of Section 30, Exemptions, 238(i) to permit a minimum ground floor area for a dwelling of 120 square metres whereas 210 square metres is required, is hereby: GRANTED**

**The above decision is based on the following reasons:**

- 1. The variance is minor in nature considering in that the gross floor area of the 2-storey house is comparable in size with the neighbourhood.**
- 2. The general purpose and intent of the Zoning By-Law is maintained in that gross floor area is large overall.**
- 3. The intent of the Official Plan is maintained in that the 2-storey dwelling will be compatible with the surrounding development.**
- 4. The proposal is desirable for the appropriate development and/or use of the land in that it maintains a smaller lot coverage to better accommodate storm water runoff and leaves a larger rear yard amenity space.**
- 5. This application is granted without prejudice to any other application in the Town of Pelham.**
- 6. No objections were received from commenting agencies or abutting property owners.**
- 7. The Committee of Adjustment considered the written and oral**

**comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.**

**The above decision is subject to the following conditions:**

**1. That all necessary building permits are required prior to construction commencing for the new addition, to the satisfaction of the Chief Building Official.**

**Carried**

## **6. Applications for Consent**

### **6.1 File B13/2017P - Kaiser & Associates Inc.**

Purpose of the Application:

Application is made for consent to convey and partial discharge of mortgage 2090 square metres of land, shown as Part 2 on the drawing submitted, being part of Lot 3, Concession 7, in the Town of Pelham.

This application is being considered concurrently with Consent Files B14/2017 and B15/2017P.

Representation:

Stephen Kaiser, Kaiser & Associates Inc., registered owner, and Ken Gonyou, Upper Canada Consultants, authorized agent, appeared on behalf of this application.

Correspondence Received:

1. Town of Pelham Planning Department
2. Town of Pelham Building Department
3. Town of Pelham Public Works & Utilities Department
4. Bell Comments. Bell Comments
5. Shephen Radbone Comments #1
6. Stephen Radbone Comments #2

Mr. Gonyou made a presentation to the members and his comments included, but are not limited to, the following:

- the application conforms to the Planning Act, the Provincial Policy Statement & the Growth Plan, the Regional Official Plan, and Town Official Plan

- he agrees with the Town of Pelham Public Works Comments regarding servicing and the development agreement as per the Town's Planning Report
- there are no environmental features at risk
- traffic will not be affected
- proposed large lots provide a gradual transition between urban and rural
- he understands and accepts the conditions of approval recommended by the Town staff

#### Public Comments

Stephen Radbone, a resident of Lookout Street commented that the existing lots on Lookout Street are considerably wider than the two subject proposals therefore, he feels they are not compatible and he offered alternatives which were also submitted and included in the agenda package. Mr. Radbone also suggested that it is best to consider the two properties as one property and divide the lots as he had suggested in order to be compatible with the existing lots on Lookout Street.

Mr. Gonyou responded to Mr. Radbone and commented that after much planning, he wanted to keep it so that there will be big beautiful houses built on the lots and advised that he has worked with Planners and there is now much more dense development.

Mr. Radbone responded and commented that this is an existing street with existing houses and whether the planning agrees or not, he doesn't care for the rest of the street turned into a modern sub-division. His opinion is such that this proposal is not compatible with what is already there.

Member Klassen commented that the members of the Committee of Adjustment Committee are bound by the Provincial Policy Statement and Growth Plan for the Greater Golden Horseshoe and that these applications comply.

Mrs. Ursula Radbone, resident of Lookout Street inquired as to when did the policy change to make the lots more dense.

Member Lockey, Chair advised that the Ontario Policies are sent down to the municipal governments to be adhered to and he is not certain as to the specific dates of changes to the policies however, the proposed applications all comply with the Provincial Policy Statement and conforms to Provincial, Regional and Local plans.

**Moved By James Federico**

**Seconded By John Klassen**

**Application for consent to convey and partial discharge of mortgage 2090 square metres of land, shown as Part 2 on the drawing submitted, being part of Lot 3, Concession 7, in the Town of Pelham, is hereby: GRANTED**

**The above decision is subject to the following conditions:**

- 1. That final approval of a Zoning By-law amendment be obtained, zoning the remnant parcel to “Residential 1”, to the satisfaction of the Director, Town of Pelham Community Planning and Development Department.**
- 2. That the applicant conducts an archaeological assessment(s) and receives clearance from the Ministry of Tourism, Culture and Sport.**
- 3. That a comprehensive overall lot grading and drainage plan for the subject and remnant parcels be submitted, demonstrating that drainage does not impact neighbouring properties, to the satisfaction of the Director, Town of Pelham Public Works & Utilities Department.**
- 4. That a development agreement be entered into with the Town of Pelham addressing all development issues including, but not limited to, those matters indicated in the Planning Report dated, June 6, 2017.**
- 5. That the applicant sign the Town of Pelham’s standard “Memorandum of Understanding” explaining that development charges and cash-in-lieu of the dedication of land for parks purposes are required prior to the issuance of a building permit, to the satisfaction of the Director, Town of Pelham Community Planning and Development Department.**
- 6. That the applicant acquire a demolition permit for the existing garage and lean to (as noted on the application) on Part 1, to the satisfaction of the Chief Building Official.**
- 7. That applications for consent, B14/2017P and B15/2017P receive final certification of the Secretary-Treasurer concurrently.**
- 8. 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.**
- 9. That the final certification fee of \$370, payable to the Treasurer, Town of Pelham, be submitted to the Secretary-Treasurer. All costs**



**associated with fulfilling conditions of consent shall be borne by the applicant.**

**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.**
- 3. 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**

#### **6.4 File B16/2017P - Jasper Michael Pala**

Purpose of the Application:

Application is made for consent for creation of new lot and to convey 1951 square metres of land, shown as Part 2 on the drawing submitted, being part of Lot 3, Concession 7, in the Town of Pelham. 4459 square metres of land (Part 3), is to be retained for continued residential use.

This application is being considered concurrently with Consent Files B17/2017P.

Representation:

Jasper Pala, applicant, and Ken Gonyou, Upper Canada Consultants, authorized agent, appeared on behalf of this application.

Correspondence Received:

1. Town of Pelham Planning Department
2. Town of Pelham Building Department
3. Town of Pelham Public Works & Utilities Department
4. Bell Comments. Bell Comments
5. Stephen Radbone Comments #1
6. Stephen Radbone Comments #2

Mr. Gonyou made a presentation to the members and his comments included, but are not limited to, the following:

- the application conforms to the Planning Act, the Provincial Policy Statement & the Growth Plan, the Regional Official Plan, and Town Official Plan
- he agrees with the Town of Pelham Public Works Comments regarding servicing and the development agreement as per the Town's Planning Report
- there are no environmental features at risk
- traffic will not be affected
- proposed large lots provide a gradual transition between urban and rural
- he understands and accepts the conditions of approval recommended by the Town staff

#### Public Comments

Stephen Radbone, a resident of Lookout Street commented that the existing lots on Lookout Street are considerably wider than the two subject proposals therefore, he feels they are not compatible and he offered alternatives which were also submitted and included in the agenda package. Mr. Radbone also suggested that it is best to consider the two properties as one property and divide the lots as he had suggested in order to be compatible with the existing lots on Lookout Street.

Mr. Gonyou responded to Mr. Radbone and commented that after much planning, he wanted to keep it so that there will be big beautiful houses built on the lots and advised that he has worked with Planners and there is now much more dense development.

Mr. Radbone responded and commented that this is an existing street with existing houses and whether the planning agrees or not, he doesn't care for the rest of the street turned into a modern sub-division. His opinion is such that this proposal is not compatible with what is already there.

Member Klassen commented that the members of the Committee of Adjustment Committee are bound by the Provincial Policy Statement and Growth Plan for the Greater Golden Horseshoe and that these applications comply.

Mrs. Ursula Radbone, resident of Lookout Street inquired as to when did the policy change to make the lots more dense.

Member Lockey, Chair advised that the Ontario Policies are sent down to the municipal governments to be adhered to and he is not certain as to the specific dates of changes to the policies however, the proposed applications all comply with the Provincial Policy Statement and conforms to Provincial, Regional and Local plans.

**Moved By John Klassen**

**Seconded By James Federico**

**Application for consent for creation of new lot and to convey 1951 square metres of land, shown as Part 2 on the drawing submitted, being part of Lot 3, Concession 7, in the Town of Pelham. 4459 square metres of land (Part 3), is to be retained for continued residential use, is hereby: GRANTED**

**The above decision is subject to the following conditions:**

- 1. That final approval of a Zoning By-law amendment be obtained, zoning the remnant parcel to “Residential 1”, to the satisfaction of the Director, Town of Pelham Community Planning and Development Department.**
- 2. That the applicant conducts an archaeological assessment(s) and receives clearance from the Ministry of Tourism, Culture and Sport.**
- 3. That a comprehensive overall lot grading and drainage plan for the subject and remnant parcels be submitted, demonstrating that drainage does not impact neighbouring properties, to the satisfaction of the Director, Town of Pelham Public Works & Utilities Department.**
- 4. That a development agreement be entered into with the Town of Pelham addressing all development issues including, but not limited to, those matters indicated in the Planning Report dated, June 6, 2017.**
- 5. That the applicant sign the Town of Pelham’s standard “Memorandum of Understanding” explaining that development charges and cash-in-lieu of the dedication of land for parks purposes are required prior to the issuance of a building permit, to the satisfaction of the Director, Town of Pelham Community Planning and Development Department.**
- 6. That the applicant acquire a demolition permit for the existing garage and lean to (as noted on the application) on Part 1, to the satisfaction of the Chief Building Official.**
- 7. That application for consent, B17/2017P receive final certification of the Secretary-Treasurer concurrently.**
- 8. 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.**

**9. That the final certification fee of \$370, payable to the Treasurer, Town of Pelham, be submitted to the Secretary-Treasurer. All costs associated with fulfilling conditions of consent shall be borne by the applicant.**

**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.**
- 3. 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**

**7. Minutes for Approval**

**Moved By John Klassen**

**Seconded By James Federico**

**THAT the minutes of the May 2, 2017, Committee of Adjustment Hearing, be approved.**

**Carried**

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Wayne Lockey, Chair

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Secretary-Treasurer, Nancy J. Bozzato

**Meeting #:** CoA-06/2017  
**Date:** Tuesday, June 6, 2017  
**Time:** 4:00 pm  
**Location:** Town of Pelham Municipal Office - Council Chambers  
20 Pelham Town Square, Fonthill

**Members Present** James Federico  
Wayne Lockey  
John Klassen

**Staff Present** Nancy Bozzato  
Judy Sheppard

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

Noting that a quorum was present, Chair 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.

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 withdrawal or adjournment.

5. **Applications for Minor Variance**

**5.1 File A20/2017P - Shawn Evans and Julie Evans**

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 of section 7.7(a) to allow a lot coverage of 3% whereas 1% is permitted for accessory structures, provided the overall lot coverage does not exceed 10%. In addition, relief from Section 7.7(d) is sought to permit a building height for the accessory building of 6.5 metres whereas 3.7 metres is permitted, to facilitate construction of a detached garage.

Representation:

Shawn and Julie Evans, registered owners, 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 & Utilities Department
5. Niagara Region Comments

Comments:

The owners, Shawn and Julie Evans, had no comments.

Public Comments

There were no comments received from the public.

Members Comments

The Members had no comments.

**Moved By James Federico**

**Seconded By John Klassen**

**Application for relief of Section 7.7(a) is requested to permit a lot coverage of 3% whereas 1% is permitted for accessory structures, provided the overall lot coverage does not exceed 10%, is hereby: GRANTED**

**Application for relief of Section 7.7(d) is requested to permit a building height for the accessory building of 6.5 metres whereas 3.7 metres is permitted, is hereby: GRANTED**

**The above decisions are based on the following reasons:**

- 1. The variance is minor in nature in that the variance will have no adverse impacts.**
- 2. The general purpose and intent of the Zoning By-Law is maintained in that adequate open space remains and will not bother the existing septic field.**
- 3. The intent of the Official Plan is maintained in that no negative impacts will be created for any natural heritage feature or neighbouring properties.**
- 4. The proposal is desirable for the appropriate development and/or use of the land given the flexibility that is provided in terms of property usage.**
- 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 decisions are subject to the following conditions:**

- 1. That all necessary building permits are required prior to construction commencing for the new addition, to the satisfaction of the Chief Building Official.**

**Carried**

## **5.2 File A21/2017P - Costiano Developments Inc**

Purpose of Application:

The subject land is zoned Residential "R" in accordance with Pelham Zoning By-law 1136(1987), as amended. The applicant is seeking relief of section 30 Exemptions, 238(I) to allow a minimum ground floor area of 120 square metres whereas 210 square metres is required, to facilitate construction of a single two-storey dwelling.

Representation:

Fred Fraraccio, Kaisma Build Group Inc., 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 & Utilities Department
4. Town of Pelham Fire & By-law Department

Comments:

Mr. Fraraccio requested that the Members consider refunding the applicant the Minor Variance application fee due to an error with the application process.

Public Comments

There were no comments received from the public.

Members Comments

The Members agreed to refund the Minor Variance application fee.

**Moved By John Klassen**

**Seconded By James Federico**

**Application for relief of Section 30, Exemptions, 238(i) to permit a minimum ground floor area for a dwelling of 120 square metres whereas 210 square metres is required, is hereby: GRANTED**

**The above decision is based on the following reasons:**

- 1. The variance is minor in nature considering in that the gross floor area of the 2-storey house is comparable in size with the neighbourhood.**
- 2. The general purpose and intent of the Zoning By-Law is maintained in that gross floor area is large overall.**
- 3. The intent of the Official Plan is maintained in that the 2-storey dwelling will be compatible with the surrounding development.**
- 4. The proposal is desirable for the appropriate development and/or use of the land in that it maintains a smaller lot coverage to better accommodate storm water runoff and leaves a larger rear yard amenity space.**
- 5. This application is granted without prejudice to any other application in the Town of Pelham.**
- 6. No objections were received from commenting agencies or abutting property owners.**
- 7. The Committee of Adjustment considered the written and oral**



**comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.**

**The above decision is subject to the following conditions:**

**1. That all necessary building permits are required prior to construction commencing for the new addition, to the satisfaction of the Chief Building Official.**

**Carried**

## **6. Applications for Consent**

### **6.1 File B13/2017P - Kaiser & Associates Inc.**

Purpose of the Application:

Application is made for consent to convey and partial discharge of mortgage 2090 square metres of land, shown as Part 2 on the drawing submitted, being part of Lot 3, Concession 7, in the Town of Pelham.

This application is being considered concurrently with Consent Files B14/2017 and B15/2017P.

Representation:

Stephen Kaiser, Kaiser & Associates Inc., registered owner, and Ken Gonyou, Upper Canada Consultants, authorized agent, appeared on behalf of this application.

Correspondence Received:

1. Town of Pelham Planning Department
2. Town of Pelham Building Department
3. Town of Pelham Public Works & Utilities Department
4. Bell Comments. Bell Comments
5. Shephen Radbone Comments #1
6. Stephen Radbone Comments #2

Mr. Gonyou made a presentation to the members and his comments included, but are not limited to, the following:

- the application conforms to the Planning Act, the Provincial Policy Statement & the Growth Plan, the Regional Official Plan, and Town Official Plan

- he agrees with the Town of Pelham Public Works Comments regarding servicing and the development agreement as per the Town's Planning Report
- there are no environmental features at risk
- traffic will not be affected
- proposed large lots provide a gradual transition between urban and rural
- he understands and accepts the conditions of approval recommended by the Town staff

#### Public Comments

Stephen Radbone, a resident of Lookout Street commented that the existing lots on Lookout Street are considerably wider than the two subject proposals therefore, he feels they are not compatible and he offered alternatives which were also submitted and included in the agenda package. Mr. Radbone also suggested that it is best to consider the two properties as one property and divide the lots as he had suggested in order to be compatible with the existing lots on Lookout Street.

Mr. Gonyou responded to Mr. Radbone and commented that after much planning, he wanted to keep it so that there will be big beautiful houses built on the lots and advised that he has worked with Planners and there is now much more dense development.

Mr. Radbone responded and commented that this is an existing street with existing houses and whether the planning agrees or not, he doesn't care for the rest of the street turned into a modern sub-division. His opinion is such that this proposal is not compatible with what is already there.

Member Klassen commented that the members of the Committee of Adjustment Committee are bound by the Provincial Policy Statement and Growth Plan for the Greater Golden Horseshoe and that these applications comply.

Mrs. Ursula Radbone, resident of Lookout Street inquired as to when did the policy change to make the lots more dense.

Member Lockey, Chair advised that the Ontario Policies are sent down to the municipal governments to be adhered to and he is not certain as to the specific dates of changes to the policies however, the proposed applications all comply with the Provincial Policy Statement and conforms to Provincial, Regional and Local plans.

**Moved By James Federico**

**Seconded By John Klassen**

**Application for consent to convey and partial discharge of mortgage 2090 square metres of land, shown as Part 2 on the drawing submitted, being part of Lot 3, Concession 7, in the Town of Pelham, is hereby: GRANTED**

**The above decision is subject to the following conditions:**

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- 3. That a comprehensive overall lot grading and drainage plan for the subject and remnant parcels be submitted, demonstrating that drainage does not impact neighbouring properties, to the satisfaction of the Director, Town of Pelham Public Works & Utilities Department.**
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**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. 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 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**

#### **6.4 File B16/2017P - Jasper Michael Pala**

Purpose of the Application:

Application is made for consent for creation of new lot and to convey 1951 square metres of land, shown as Part 2 on the drawing submitted, being part of Lot 3, Concession 7, in the Town of Pelham. 4459 square metres of land (Part 3), is to be retained for continued residential use.

This application is being considered concurrently with Consent Files B17/2017P.

Representation:

Jasper Pala, applicant, and Ken Gonyou, Upper Canada Consultants, authorized agent, appeared on behalf of this application.

Correspondence Received:

1. Town of Pelham Planning Department
2. Town of Pelham Building Department
3. Town of Pelham Public Works & Utilities Department
4. Bell Comments. Bell Comments
5. Stephen Radbone Comments #1
6. Stephen Radbone Comments #2

Mr. Gonyou made a presentation to the members and his comments included, but are not limited to, the following:

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Mrs. Ursula Radbone, resident of Lookout Street inquired as to when did the policy change to make the lots more dense.

Member Lockey, Chair advised that the Ontario Policies are sent down to the municipal governments to be adhered to and he is not certain as to the specific dates of changes to the policies however, the proposed applications all comply with the Provincial Policy Statement and conforms to Provincial, Regional and Local plans.

**Moved By John Klassen**

**Seconded By James Federico**

**Application for consent for creation of new lot and to convey 1951 square metres of land, shown as Part 2 on the drawing submitted, being part of Lot 3, Concession 7, in the Town of Pelham. 4459 square metres of land (Part 3), is to be retained for continued residential use, is hereby: GRANTED**

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- 3. That a comprehensive overall lot grading and drainage plan for the subject and remnant parcels be submitted, demonstrating that drainage does not impact neighbouring properties, to the satisfaction of the Director, Town of Pelham Public Works & Utilities Department.**
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**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.**

**9. That the final certification fee of \$370, payable to the Treasurer, Town of Pelham, be submitted to the Secretary-Treasurer. All costs associated with fulfilling conditions of consent shall be borne by the applicant.**

**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.**
- 3. 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**

**7. Minutes for Approval**

**Moved By John Klassen**

**Seconded By James Federico**

**THAT the minutes of the May 2, 2017, Committee of Adjustment Hearing, be approved.**

**Carried**

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Wayne Lockey, Chair

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Secretary-Treasurer, Nancy J. Bozzato