

Meeting #: CoA-08/2018
Date: Tuesday, August 14, 2018
Time: 4:00 pm
Location: Town of Pelham Municipal Office - Council Chambers
 20 Pelham Town Square, Fonthill

Members Present Wayne Lockey
 Brian DiMartile
 John Klassen
Members Absent James Federico
 Donald Cook
Staff Present Nancy Bozzato
 Holly Willford
Others Present Applicants and Authorized Agents
 Interested Citizens

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 received.

5. Applications for Consent

5.1 File B4/2018P - 2227531 Ontario Inc.

Purpose of Application

Application is made for consent to convey.

Representation

Osama Abo Nassar, Architect for the applicant.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Building Department
3. Town of Pelham Public Works & Engineering
4. Bell Comments
5. Mark Bull and Neighbouring Residents

Applicant, Public, and Members Comments

Osama Abo Nassar, Architect for the applicant, made a short oral presentation indicating Town staff had done a good job in their summary presentation. He indicated his client's application is consistent with the growth plan, the new lot being proposed will be a good size, and that the owner plans to keep the lot for him/herself.

Mark Bull, 52 Stella Street, indicated he wrote the petition letter which various members of the community signed. He advised his home is directly behind the proposed new dwelling and he is concerned the proposed lot will look out of place with the larger lots in the area, drainage is currently running between 52 and 54 Stella Street and he is worried the new home will adversely affect the current owners. He also indicated the community is concerned about losing a number of mature trees in the area.

In response, Mr. Nassar thanked Mr. Bull for sharing his concerns. Mr. Nassar advised the applicant supports the neighbourhood and will ensure the design of the proposed home will enhance the neighbourhood. He also indicated any drainage issues will be addressed through the drainage / grading plan and stated there would be no negative drainage affecting the surrounding properties.

Brian DiMartile, Member, indicated he has visited the site in question and at first he was concerned with the proposed lot size, however he recalled similar concerns when the Stella Street community was being built. He advised he has faith in the Town of Pelham staff to ensure the various conditions on the development will be met, in particular the potential drainage issues. Mr. DiMartile further indicated he felt this was a valuable property that should be developed.

John Klassen, Member, recounted the history of the property. He indicated he understood the neighborhood's concern and asked Mr. Nassar why he would not have commissioned the required drainage plan to ease the communities concerns prior to bringing forward the consent application.

Wayne Lockey, Chair of the Committee of Adjustments, indicated he understood the neighborhood's concerns as well, however advised with the provincial and town policy supporting infill he feels the Committee of Adjustments has no choice but to approve this application.

Moved By Brian DiMartile

Seconded By John Klassen

Application for consent to convey 749.9 square metres of land for the construction of a 2 storey dwelling for residential use. 1479.8 square metres of land (Part 2) is to be retained for continued use of the dwelling known municipally as 1295 Pelham Street, is hereby: GRANTED.

Carried

6. Applications for Minor Variance

6.1 File A11/2018P - 2227531 Ontario Inc.

Purpose of Application

Application is made to seek relief from Section 13.2(b) to permit a lot frontage of 15.38 metres whereas the by-law requires 19 metres

Representation

Osama Abo Nassar, Architect for the applicant.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Building Department
3. Town of Pelham Public Works Department
4. Town of Pelham Fire Department
5. Mark Bull and Neighbouring Residents

Applicant, Public, and Members Comments

Osama Abo Nassar, Architect for the applicant, made a short oral presentation reiterating the lot being created will be a nice sized lot and will have a very nice house on it. He further indicated he agreed with the comments from the Public Works Department. Lastly, he advised construction of the home will be done in accordance with the by-law and any engineering requirements.

Mark Bull, 52 Stella Street, further indicated he and his neighbours are concerned with this development. He expressed he was disappointed and he felt it appeared as though the decision for these applications have been made in advance. Mr. Bull then advised he is concerned with the distance of the proposed dwelling to the street. The proposed home has a shorter distance to the street than any other home along Pelham Street. Mr. Bull further indicated he is unsure that the proposed house will actually be owner occupied as the current dwelling is being rented and is listed for sale.

Wayne Lockey, Chair of the Committee of Adjustments, indicated to Mr. Bull that no decision has been made prior to this meeting and that this is the first the members have met to discuss the application. He emphasized the Committee of Adjustments has provincial policies they must follow when making a decision. Nancy Bozzato, Town Clerk, advised the public the slide show presentation presented is a summary of the Planning Department's report and comments received from agencies and the public, however the Members have received all correspondence in full prior to the meeting. Wayne Lockey confirmed that he and all members of the Committee of Adjustments have received and read all comments from the public.

Brian DiMartile, Member, indicated the members received approximately 72 pages of reading materials prior to the meeting. He further advised the members conduct onsite visits of the subject properties. Mr. DiMartile further indicated the Committee of Adjustments does not simply 'rubber stamp' applications and their decisions are not made lightly. Lastly, he advised that he concurs with the Chair and that infill is becoming important and we must follow the Town policies.

John Klassen, Member, indicated he believes this is not a minor variance. He indicated the Committee has to also consider the affects on the people, not just consider our government policies. Mr. Klassen stated the Committee of Adjustments has to protect the interest of the people of

the community. He indicated this matter is subjective and he is of the opinion this is not a minor variance.

Wayne Lockey, Chair of the Committee of Adjustments, in response to Mr. Klassen's comments indicated similar applications have come before the Committee and if the Committee decision does not reflect provincial policy the applicant will appeal and the decision will be overturned.

It is noted Member, John Klassen voted against this application.

Moved By Brian DiMartile

Seconded By Wayne Lockey

Application for relief from Section 13.2(b) to permit a lot frontage of 15.38 metres whereas the by-law requires 19 metres, is hereby: GRANTED.

Carried

6.2 File A12/2018P - Joseph and Rosalinda Zoccoli

Purpose of Application

Application is made to seek relief from Section 7.7(d) to permit a building height of 5.12 metres to the mid point of the pitched roof.

Representation

Joseph Zoccoli, Owner and Tim Sinke, Agent of the applicant.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Building Department
3. Town of Pelham Public Works Department
4. Town of Pelham Fire Department
5. Niagara Region Comments
6. Paul Snack and Lori Guzda
7. Terri-Lynn Jovanovic

Applicant, Public, and Members Comments

Tim Sinke, Agent for the applicant, made an oral presentation and stated the application is minor in nature and that the applicant is requesting the variance to keep the height of the accessory building consistent with the existing structure. Mr. Sinke addressed several comments and concerns the neighbourhood had by explaining the need for the additional height, landscaping and indicating the property would not be used for cannabis. He also indicated if the applicant wished to build the structure to meet the current by-law standard the applicant would be able to build a 49,000 square foot structure, however he is only proposing a 2,000 square foot addition. Joseph Zoccoli, Owner, added that there would be no plumbing or living space in the proposed structure.

Paul Snack, 785 Sawmill Road, indicated he lives directly across from the proposed structure. He indicated the zoning for the area is Rural Estate and he indicated the structure is not agricultural, but rather more commercial in size and appearance. He further questions why the applicant would require a large extension for storage. Mr. Snack also indicated he feels the structure would not enhance the neighbourhood nor would it fit the community. Mr. Snack then suggested landscaping was recommended for the previous minor variance and he and the community would appreciate landscaping to be done.

John Klassen, Member, asked the agent to confirm if the applicant did not require the minor variance for height, the applicant would be able to apply for a building permit and start construction right away. The Agent confirmed that was correct.

Wayne Lockey, Chair of the Committee of Adjustments, stated the property in question is zoned Agriculture, and therefore it would be difficult to construct any type of a barn without additional height. Mr. Lockey concurred with Mr. Klassen, the only reason the application has been brought forward is the question of height.

Brian DiMartile, Member, concurred with the Chair and stated he has visited the site and was impressed with the landscaping of the subject property and all the surrounding properties. He also indicated if this property was sold to be used as a farm the proposed structure would be helpful. Mr. DiMartile also indicated he would personally be upset if someone told him how to landscape his property and he trusts the applicant will landscape appropriately.

Chantelle Sterenberh, 775 Sawmill Road, indicated the landscaping is in questions as the proposed structure is in the front yard rather than the backyard.

Moved By John Klassen

Seconded By Brian DiMartile

Application for relief from Section 7.7(d) to permit a building height of 5.12 metres to the mid point of the pitched roof, whereas the bylaw permits a maximum height of 3.7 metres, for an addition to the existing utility shed, is hereby: GRANTED.

6.2.1 Chantelle Sterenberg

6.2.2 Terri-Lynn Jovanovic

6.3 File A13/2018P - 2475650 Ontario Inc.

It was determined by the panel to hear applications A13/2018P – A18/2018P concurrently.

Purpose of Application A13/2018P - A18/2018P

Application is made to seek relief from Section 13.2 (c) “Maximum lot coverage” – to permit an overall lot coverage of 40% whereas 30% is permitted to facilitate construction of a single family dwelling.

Representation

Stephen Kaiser, principal owner of the numbered company.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Building Department
3. Town of Pelham Public Works Department
4. Town of Pelham Fire Department

Applicant, Public, and Members Comments

Stephen Kaiser, Owner, made an oral presentation and stated he is the principal owner of the numbered company and his partners are Roman Grocholsky and Brad Johnston. Mr. Kaiser recounted the history of the property and indicated he would like to build 6 very nice homes. He

indicated he is requesting the minor variance because potential purchasers have indicated they prefer bigger bungalow style homes. Mr. Kaiser indicated seeking a 40% lot coverage in the Town of Pelham is not uncommon and cited the Timber Creek and Lookout developments. He believes the variance will complement and add value to the surrounding area.

Eric Jones, 12 Timber Creek Crescent, indicated the maximum 30% lot coverage 'rule' has been in place for a long time and that the builder would know that and should follow that. Mr. Jones indicated he understood why a variance may be wanted for a bungalow, but is concerned about the possibility of a two-storey house with this lot coverage size. He feels this is not a minor variance and indicated in North York, the builder might request a 2% increase not 10%. In response to Mr. Jones, Wayne Lockey, Chair of the Committee of Adjustments, indicated he feels the Committee's hands are tied and that if the application is not approved the applicant will appeal and the decision likely over turned.

Brian DiMartile, Member, indicated he does not think the Committee of Adjustments hands are tied and asked for further explanation from the Chair. In response, Wayne Lockey indicated the Committee of Adjustments has turned down smaller applications which led the applicant to appeal and the decision to be overturned. He stated the provincial policies are for intensification. In reply, Brian DiMartile indicated he does not feel the Committee's hands are tied. He requested Nancy Bozzato, Town Clerk to advise if there is a provincial policy which ties the hands of the Committee. Nancy Bozzato advised the lots in question were created by consent and that the lot sizes were created in compliance with provincial policy. Furthermore, she indicated the Committee of Adjustments is compelled to make a decision on these applications alone. She further advised the application requests a 40% lot coverage, however the Committee has the authority to reduce the coverage from anywhere between 30 and 40%.

Mike Zoric, 13 Rhodes Court, indicated that Rhodes Court is zoned R2 and that there is a new subdivision in the area which is all 45% lot coverage. Furthermore, he stated the Timber Creek subdivision is specific lot coverage per individual home. The proposal is abutting 2 Timber Creek and he believes the lot coverage is going to increase the property value of the surrounding area. Mr. Zoric is supportive of this application and asks that it be approved.

John Klassen, Member, stated that the Committee of Adjustments should make their decision and if someone wishes to appeal, they can. Mr. Klassen remarked people take their time to come to the Committee of Adjustments and the Committee is obligated to listen to people. He stated the Committee of Adjustments must listen to both sides and come up with a win, win solution for all.

Stephen Kaiser, Owner, commented that he believes the setbacks and lot coverage stipulated in the Town's Zoning By-Law are not congruent. He believes the by-law is flawed and that the Town is currently re-writing the Zoning By-Law to correct this. Mr. Kaiser notes the Town amended the R1 Zoning on new developments, such as Timber Creek and Lookout, to 40% lot coverage because the zoning by-law is flawed. He indicated he and his partners are not requesting a change in set backs but requesting the lot coverage to appropriately match the size of the lot.

Brian DiMartile, Member, indicated he concurs with Mr. Kaiser. Mr. Klassen indicated the lots that Mr. Kaiser has are larger than what is being proposed today.

Moved By Brian DiMartile

Seconded By John Klassen

Files A13/2018P – A18/2018 P Application for relief from Section 13.2 (c) “Maximum lot coverage” – to permit an overall lot coverage of 40% whereas 30% is permitted to facilitate construction of a single family dwelling is hereby: GRANTED.

Carried

6.4 File A14/2018P - 2475650 Ontario Inc.

It was determined by the panel to hear applications A13/2018P – A18/2018P concurrently. Minutes are listed with item number 6.3.

6.5 File A15/2018P - 2475650 Ontario Inc.

It was determined by the panel to hear applications A13/2018P – A18/2018P concurrently. Minutes are listed with item number 6.3.

6.6 File A16/2018P - 2475650 Ontario Inc.

It was determined by the panel to hear applications A13/2018P – A18/2018P concurrently. Minutes are listed with item number 6.3.

6.7 File A17/2018P - 2475650 Ontario Inc.

It was determined by the panel to hear applications A13/2018P – A18/2018P concurrently. Minutes are listed with item number 6.3.

6.8 File A18/2018P - 2475650 Ontario Inc.

It was determined by the panel to hear applications A13/2018P – A18/2018P concurrently. Minutes are listed with item number 6.3.

7. Minutes for Approval

8. Adjournment

BE IT RESOLVED THAT this Meeting of the Committee of Adjustment Hearing be adjourned until the next regular meeting scheduled for September 11, 2018 at 4:00 pm.



Wayne Locky, Chair



Secretary-Treasurer, Nancy J. Bozzato