

Committee of Adjustment AGENDA

CofA-02/2018

February 6, 2018

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
6. Applications for Consent
 - 6.1 File B1/2018P - Patrizia & Reinhold Pentzek 1
 1. Town of Pelham Planning Department
 2. Town of Pelham Building Department
 3. Town of Pelham Public Works Department
 4. Bell Canada
 5. John & Nicole Lelie

6.2 File B30/2017P - 4 High Street Inc.

9

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. Stuart Macpherson
6. Murray and Helen Downie

7. Minutes for Approval

22

Minutes, Committee of Adjustment Hearing, January 9, 2018

8. Adjournment

February 6, 2018

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

**Re: Consent Application B1/2018P (Pentzek)
809 & 811 Foss Road, Pelham
Part of Lot 19, Registered Plan 703
Roll No. 2732 010 016 14200**

The subject parcel, shown as Part 1 on the attached sketch, has 15.24m of frontage on the north side of Foss Road, lying west of Church Street, being Part of Lot 19, Plan 703, known municipally as 809 & 811 Foss Road in the Town of Pelham.

Application is made for consent to convey 766.45m² of land (Part 1 – 811 Foss Road) to create a new lot for the existing semi-detached dwelling. 766.45m² of land (Part 2 – 809 Foss Road) is to be retained for the continued use of an existing semi-detached dwelling.

Applicable Planning Policies

Planning Act (Consolidated July 2016)

Section 51 (24) states when considering the division of land, regard shall be had to the health, safety, convenience, accessibility and welfare of the present and future inhabitants of the municipality and among other things to,

- a) The development's effect on provincial matters of interest;
- b) Whether the proposed subdivision is premature or in the public interest;
- c) Whether the plan conforms to the Official Plan and adjacent plans of subdivisions, if any
- d) The suitability of the land for such purposes;
- f) The dimensions and shapes of the proposed lots;
- h) Conservation of natural resources and flood control;
- i) The adequacy of utilities and municipal services;
- j) The adequacy of school sites

Section 53 (1) states a land owner may apply for a consent and the council may, subject to this section, give a consent if satisfied that a plan of subdivision is not necessary for the proper and orderly development of the municipality.

Provincial Policy Statement (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.

Policy 1.1.3.3 states municipalities shall identify appropriate locations and promote opportunities for intensifications where this can be accommodated taking into account existing building stock and the availability of suitable existing infrastructure and public service facilities.

Growth Plan for the Greater Golden Horseshoe (GGH) (2017)

This Plan informs decision-making regarding growth management and environmental protection in the GGH. The subject parcel is located within a 'Settlement Area' according to the Growth Plan. Guiding principles regarding how land is developed:

- Support the achievement of *complete communities* to meet people's needs through an entire lifetime.
- Prioritize *intensification* and higher densities to make efficient use of land and *infrastructure*.
- Support a range and mix of housing options, including second units and *affordable* housing, to serve all sizes, incomes, and ages of households.
- Provide for different approaches to manage growth that recognize the diversity of communities in the GGH.
- Integrate climate change considerations into planning and managing growth.

Policy 2.2.1 Managing Growth – 2. Forecasted growth to the horizon of this Plan will be allocated based on the following:

- a) the vast majority of growth will be directed to *settlement areas* that:
 - i. have a *delineated built boundary*;
 - ii. have existing municipal water / wastewater systems; and
 - iii. can support the achievement of complete communities.

The subject land fronts existing water and wastewater services and is within walking distance to Downtown Fenwick.

Regional Official Plan (Consolidated August 2015)

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

Policy 4.G.6.2 indicates *Urban Areas* will be the focus for accommodating the Region's growth and development.

Policy 4.G.8.1 states *Built-Up Areas* will be the focus of residential intensification and redevelopment.

Pelham Official Plan (2014)

The local Official Plan designates the subject land as 'Urban Living Area / Built Boundary'.

Policy B1.1.1 recognizes the existing urban area of Fenwick and the role the Town will need to accommodate various forms of residential intensifications, where appropriate.

Policy D5.2.1 identifies criteria for any new lots to be created by consent for any purpose will require the Committee of Adjustment to be satisfied that (among others) the proposed lot:

- b) Will not cause a traffic hazard as a result of its location;
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
- e) Will not have a negative impact on the drainage patterns in the area;
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area.



Town of Pelham Zoning By-law No. 1136 (1987), as amended

The subject land is zoned 'Residential Village 2 - 251' (RV2-251) according to the Zoning By-law. The permitted uses include:

- a) Semi-detached dwelling;
- b) Duplex dwellings;
- c) Accessory uses.

It is noted that both the severed and retained lots will comply with the zoning provisions outlined in Section 10.2 for lot frontage and lot area.

Agency and Public Comments

On January 4th, 2018, a notice of public hearing was circulated by the Secretary Treasurer of the Committee of Adjustment to applicable agencies, Town departments, and to all assessed property owners within 60 metres of the property's boundaries.

Staff / Agency

- Building Department (December 22, 2017)
 - No comment
- Public Works Department (February 1, 2018)
 - {see conditions and Appendix}

Public Comments (summarized below, see appendices for complete comments)

- John / Nicole Lelie (January 22, 2018)
 - Concern with drainage issues. Downspouts of 809 Foss Rd cause runoff to flow into 807 Foss Rd which is eroding gardens and driveway.
 - ✓ Final lot grading is outstanding under the applicant's open building permit and is required to receive final approval by the Public Works Department before the building permit can be closed.

Planning Staff Comments

The current application deals with the severance of 766.45m² of land (Part 1) from the existing 766.45m² of land (Part 2). The recently built semi-detached dwelling was constructed on a single lot of record but each half is not able to be legally conveyed separately until such time as a Certificate of Consent is registered into the Land Registry system

The proposed severance is within an established neighbourhood of residential dwellings near the southern tier of Fenwick's *Urban Area*. The subject land is also within walking distance to Downtown Fenwick.

Please note that the applicant still has open building permits for both 809 and 811 Foss Road. Included in the outstanding permits is a need for final lot grading approval, of which, the Town currently holds a security deposit. Once the final lot grading has been approved, the applicant's security deposit is refunded.

Planning staff is of the opinion that the proposal is an ideal application of current planning and development goals dealing with appropriate and sensitive infill housing, making more efficient use of the existing built-up lands, where suitable to do so. The proposed severance is not permitting more development under the current Zoning By-law as the semi-detached dwelling was constructed legally on

From the Department of



an individual lot of record.

In Planning staff's opinion, the application is consistent with the PPS, and conforms to Provincial, Regional, and Local plans.

Planning staff recommend that the consent **be granted** subject to the following conditions:

THAT the applicant

- Receive final lot grading & drainage approval for both parcels to confirm that drainage neither relies upon, nor negatively impacts neighbouring properties, and that all drainage will be contained within the respective lots, to the satisfaction of the Director of Public Works.
- Submits locate cards that indicate the location of the individual water service and sanitary lateral for both lots.
- The Secretary-Treasurer be provided with a registerable 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.
- 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.

Submitted by,



Curtis Thompson
Planner, B.URPI

Reviewed by,

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

File: B1/2018P

December 22, 2017

Address: Part of lot 19
809 Foss Rd, Pelham

Owner: Patrizia & Reinhold Pentzek

Nancy Bozzato
Town Clerk/Secretary-Treasurer

The Building Department offers the following comment,

- The Building Department has no comment.

Belinda Menard
Building Intake/Plans Examiner
Community Planning & Development

Memorandum

Public Works Department - Engineering

DATE: February 1, 2018
TO: Curtis Thompson, Planner
CC: Nancy J. Bozzato, Clerk; Judy Sheppard, Deputy Clerk; Andrea Clemencio, Director of Public Works and Utilities
FROM: Xenia Pasiecznik, Engineering Technologist
RE: File B1/2018P
809 Foss Road

We have completed the review of the consent application B1/2018P for consent to convey 766.45 square meters of land (Part 1) to create a new lot for semi-detached Residential use. 766.45 square meters of land (Part 2), known municipally as 811 Foss Road, is to be retained for continued semi-detached Residential use.

Upon this review, Public Works has the following proposed conditions:

1. That Public Works receives a final lot grading and drainage plan for both parcels to confirm that the drainage neither relies upon, nor negatively impacts neighbouring properties, and that all drainage will be contained within the respective lots, to the satisfaction of the Director of Public Works.
2. That the applicant submits locate cards that indicate the location of the individual water service and sanitary lateral for both lots.

From: Hall, Charleyne [<mailto:charleyne.hall@bell.ca>]
Sent: Tuesday, December 12, 2017 11:03 AM
To: Sarah Leach
Subject: RE: Town of Pelham - Notice of Hearing

Good morning Sarah,

We have no concerns regarding Pelham consent file B1/2018P.

Thank you,

Charleyne Hall
External Liaison
Bell Canada Right of Way



140 Bayfield St. FL 2
Barrie, ON, L4M 3B1
P: 705-722-2264
F: 705-722-2263
1-888-646-4817
charleyne.hall@bell.ca

January 22, 2018

Nancy J Bozzato
Town Clerk Secretary-Treasurer
20 Pelham Town Square, P.O. Box 400
Fonthill, Ontario L0S 1B0

Re: File B1/2018P Patrizia & Reinhold Pentzek

To whom it may concern:

We received your notification by mail regarding the application for consent to convey the lot located at 809 Foss Road in Fenwick into two separate lots for continued semi-detached residential use (your file B1/2018P Patrizia & Reinhold Pentzek).

We would like to inform you that we have in principle no objections to this application, however we are concerned with the current drainage issues.

Due to elevation differences, the water run-off from the down-spouts of the dwelling at 809 Foss Road flows across our property at [REDACTED] Foss Road to the ditch near the road during moderate & heavy rain fall eroding our gardens and drive way.

We feel that the drainage issues should be resolved prior to conveying the lot into two separate lots & sale of the semi-detached dwellings in order to prevent that this issue will continue on.

As a closing remark we would like to point out to you that the drainage & elevation issues were already addressed at the public meeting on July 14, 2014.

Sincerely,

John (Johannes Pieter) and Nicole Lelie
[REDACTED] Foss Road
Fenwick, Ontario
L0S 1C0

Tel. [REDACTED]
Email: [REDACTED]

February 6, 2018

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

**Re: Consent Application B30/2017P (4 High Street Inc.)
1022 Pelham Street, Pelham
Part of Lot 1, Concession 10, RP 59R-10892; Parts 4 & 7
Roll No. 2732 030 012 05720**

The subject parcel, shown as Part 2 on the attached sketch, has 12.01m of frontage on the south side of Welland Road, lying west of Pelham Street, being Part of Lot 1, Concession 10, RP 59R-10892; Parts 4 & 7 in the Town of Pelham.

Application is made for consent for a right-of-way in perpetuity over 702m² (Part 2) of land to the benefit of Part 4 for use as a shared driveway for ingress and egress purposes. Parts 1-3 are to be retained for continued commercial use.

*Note – This application has been recirculated due to a request for adjournment from the Applicant at the October 3, 2017 Hearing in order to amend the proposed alignment of the easement. The proposed realignment is a result of a site plan design consideration on the adjacent Part 4. It should be understood that the impending site plan / rezoning applications on Part 4 still require Council approval.

Applicable Planning Policies

Planning Act (Consolidated July 2016)

Section 53 of the Planning Act authorizes municipalities to give consents to land owners including those to convey lands for easements in perpetuity.

Provincial Policy Statement (2014)

The subject parcel is located in a 'Settlement Area' according to the Provincial Policy Statement (PPS). The PPS provides policy direction on matters of provincial interest related to land use planning and development, and sets the policy foundation for regulating the development and use of land. The PPS provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment.

Policy 1.1.3.4 states appropriate development standards should be promoted which facilitate *intensification*, *redevelopment* and compact form, while avoiding or mitigating risks to public health and safety.

Growth Plan for the Greater Golden Horseshoe (GGH) (2017)

This Plan informs decision-making regarding growth management and environmental protection in the GGH. The subject parcel is located within a 'Settlement Area' according to the Growth Plan. Guiding principles regarding how land is developed:

- Support the achievement of *complete communities* to meet people's needs through an entire lifetime.
- Prioritize *intensification* and higher densities to make efficient use of land and *infrastructure*.
- Support a range and mix of housing options, including second units and *affordable* housing, to serve all sizes, incomes, and ages of households.
- Provide for different approaches to manage growth that recognize the diversity of communities in the GGH.
- Integrate climate change considerations into planning and managing growth.

Policy 2.2.1 Managing Growth – 2. Forecasted growth to the horizon of this Plan will be allocated based on the following:

- a) the vast majority of growth will be directed to *settlement areas* that:
 - i. have a *delineated built boundary*;
 - ii. have existing municipal water / wastewater systems; and
 - iii. can support the achievement of complete communities.

Regional Official Plan (Consolidated August 2015)

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

Policy 4.C.5.1 states Designated Greenfield Areas will be planned as compact, complete communities by accommodating a range of land uses, including residential and commercial uses.

Policy 4.G.6.2 indicates 'Urban Areas' will be the focus for accommodating the Region's growth and development.

Pelham Official Plan (2014)

The subject property has split Official Plan designations; the commercial segment to the east (Parts 1-3) is designated 'Urban Highway Commercial' and the western segment (Part 4) is designated 'Urban Living Area / Built Boundary'. The entirety of the parcel is also designated 'Greenfield Overlay' with the presence of a 'Highly Vulnerable Aquifer' (HVA).

Policy B1.1.1 recognizes the existing urban area of Fonthill and the role the Town will need to accommodate various forms of residential intensifications, where appropriate.

Policy D5.2.1 identifies criteria for any new lots to be created by consent for any purpose will require the Committee of Adjustment to be satisfied that (among others) the proposed lot:

- b) Will not cause a traffic hazard as a result of its location;
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
- e) Will not have a negative impact on the drainage patterns in the area.

Pelham Zoning By-law No. 1136 (1987), as amended

The subject property has split zoning; the commercial segment to the east (Parts 1-3) is zoned 'NC-108' and the western segment (Part 4) is zoned 'RM1 (H)'.

The 'Holding' provision currently in place on Part 4 is for the purpose of ensuring an easement granting access for emergency vehicles onto the adjacent lands is addressed before the 'Holding' provision can be lifted and development can ensue. This application seeks to address the necessary access easement for the parcels.

Agency and Public Comments

On January 10th, 2018, a notice of public hearing was recirculated by the Secretary Treasurer of the Committee of Adjustment to applicable agencies, Town departments, and to all assessed property owners within 60 metres of the property's boundaries.

Staff / Agency

- Fire Department (January 30, 2018)
 - Satisfied with proposal.
- Building Department / Drainage Superintendent (January 12, 2018)
 - No comment
- Public Works Department (September 27, 2017 & January 30, 2018)
 - It has been noted that storm and watermain infrastructure serving Parts 1-3 is located under the easement proposed in favour of Part 4. Consequently, the maintenance of this infrastructure could impede the use of this easement by Part 4 and vice versa.

Public Comments (summarized below, see appendices for complete comments)

- Murray Downie (January 22, 2018)
 - Confusion over location of fuel delivery trucks and the possible conflict with emergency vehicles via proposed easement with mention of the applicant's sketch that notes a "Future additional gas pump" to the west of the existing pumps.
 - ✓ When the commercial lands of 1022 Pelham Street went through Site Plan Approval, Council only approved the four (4) pumps. A future pump would require a Site Plan Amendment and therefore Council approval.
 - ✓ The supplied photo shows a fueling truck with a rotated tractor appearing to block what would be the future right-of-way. It should be noted that the parking lot has not been completed as it will eventually extend further south removing the need for a tractor trailer to park at a bend and thus making available, emergency vehicle passage.
 - Concern over future driveway alignment on Part 4 possibly causing headlights to be directed at private homes.
 - ✓ The current (RM1) zoning permits townhouse dwellings on Part 4. The existing vertical separation between the rear yards of these Michaela Crescent houses and Part 4 consists of scattered trees, wooden fences and some chain link fence.
 - ✓ The imminent site plan control and potential zoning amendment will deal with



- building setbacks, private laneway design, privacy screening such as hedge rows and / or fences.
 - ✓ Town staff understands the existing privacy fence / plantings have room for improvement. Vehicle headlights and mitigation measures will need to be considered for Site Plan Approval.
- Stuart Macpherson (January 16, 2018)
 - Objects to the proposed consent for a right-of-way because traffic queue length of eastbound Welland Road vehicles is backed-up at times and adding a new access point to Welland Rd is inappropriate.
 - ✓ The proposal seeks an easement in perpetuity over an existing driveway apron.
 - ✓ A new driveway access will eventually be needed to service the adjacent parcel (Part 4) to the west. This was considered at the time of a previous rezoning amendment and the Public Works Department has not expressed any concerns about a future driveway access in this location.
 - Concern over vehicles utilizing the existing parking lot as a thoroughfare to circumvent red lights at the Welland Rd & Pelham St intersection.
 - ✓ This application is not creating any new access points or shortcuts. The easement is for emergency vehicles.
 - Doubts a fire truck can navigate the proposed right-of-way corridor.
 - ✓ The Fire Department has been continually involved with this application and is pleased that the design satisfies their needs and Ontario Building Code Article 3.2.5.6.
 - Concern over proximity to Welland Rd & Pelham Street intersection.
 - ✓ No new access point is being created with this application.
 - Complaints regarding the style of planning and lack of design foresight.
 - ✓ The applicant is different from the developers of Parts 1-3 (gas station & commercial buildings)
 - ✓ This application is for an easement in favour of Part 4 for emergency access purposes. The design, density, character and fate of the future residential development on Part 4 is not known at this time as no development applications have been submitted for rezoning or site plan control.
 - ✓ The subject application is not an afterthought. This required easement was planned and anticipated originally during the prior planning approvals, hence the need to apply a 'holding' provision on the current RM1 zone. The previous adjournment and desire to realign the right-of-way location stems from the applicant's preferred plan on Part 4. If the design on Part 4 is not granted approval, any adjustments to the subject easement will continue to be the responsibility of the developer.
 - Complaints regarding incomplete site works surrounding the commercial lands.
 - ✓ The site plan works have not been completed and are on-going, the Town, (in conjunction with the public utilities) are working with the developers of Parts 1-3 to satisfactorily complete the obligations of that Site Plan Agreement. Coordination with the Niagara Region for some of the works relating to traffic signals is on-going as well.

Planning Staff Comments

The application deals with the conveyance of an access easement for emergency purposes in favour of Part 4. Pelham Council had previously considered and approved the current Official Plan



Amendment, Zoning By-law Amendment and Site Plan for the commercial development. The Site Plan Approval for the commercial property provided for this easement, therefore there is no need to amend the Site Plan Agreement to recognize the easement serving the residential lands to the west.

A consent application was made in early 2017 and was granted to sever the residential lands from the commercial lands. This application is required in order to lift the 'Holding' provision currently put in place by the Zoning By-law Amendment and is anticipated as a necessary step towards the progression of the property's development.

A pre-consult was held with the applicant(s) of the property and staff from the Town and Niagara Region Planning & Development Services on May 4th, 2017 to discuss the future development.

The subject lands are located near the southwest corner of Pelham Street and Welland Road and are surrounded by:

- North - Church
- East - Commercial plaza and gas station
- South - Agricultural and woodlands
- West - Single detached residential



Figure 1: Subject lands (Part 4) as viewed from Welland Road.

Planning staff visited the site and reviewed aerial photography to better understand the local context (Figure 1). The neighbourhood forms the southern limits of the Fonthill urban boundary with residential and commercial development underway in the area.

Staff note that the holding provision applied to the RM1 zoning can only be lifted until such time that an easement granting access for emergency purposes onto the adjacent lands (Parts 1-3), municipally known as 1022 Pelham Street, legally described as Part of Concession 10, Part of Lot 1, RP 59R-10892; Parts 4 & 7, is registered on title. The approval of this consent for a right-of-way in perpetuity will facilitate the registration of an easement on title.

Planning staff is of the opinion that the proposal applies current planning and development goals because the conveyance of an access easement will facilitate the orderly development of the adjacent residential lands. The proposed right-of-way should not negatively impact the surrounding neighbourhood with regards to land use compatibility. It is noted that further planning approvals by Council will be required prior to any development proceeding on Part 4.

In Planning staff's opinion, the application is consistent with the PPS and conforms to Provincial, Regional, and Local plans.

Planning staff recommend that the consent **be granted** subject to the following condition(s):

THAT the applicant

- Provide the Secretary-Treasurer with a registerable 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.
- Provide 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.

Submitted by,



Curtis Thompson, B.URPI
Planner

Reviewed by,

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

File: B30/2017P **REVISED**

January 12, 2018

Address: Part lot 1,

1022 Pelham St, Pelham

Owner: 4 High Street Inc. (Charles Dyer)

Authorized Agent: Fulvio J. Delibato

Nancy Bozzato

Town Clerk/Secretary-Treasurer

The Building Department offers the following comment,

- The Building Department has no comment.

Belinda Menard

Building Intake/Plans Examiner

Community Planning & Development

DATE: September 27, 2017
TO: Curtis Thompson, Planner
CC: Nancy J. Bozzato, Clerk, Andrea Clemencio, Director of Public Works & Utilities
FROM: Tolga Aydin, Engineering Technologist
RE: File B30/2017P
1022 Pelham Street

We have completed the review of the consent application B30/2017P for consent of a right-of-way in perpetuity over Part 2 to the benefit of Part 4 for use as a shared driveway for ingress and egress purposes.

Public Works has the following comments:

- It has been noted that storm and watermain infrastructure serving Part 1 is located under the easement proposed in favour of Part 4. Consequently, the maintenance of this infrastructure could impede the use of this easement by Part 4 and vice versa.

Curtis Thompson

From: Xenia Pasiiecznik
Sent: January-30-18 12:13 PM
To: Curtis Thompson
Cc: Derek Young
Subject: File B30/2017P - 1022 Pelham St

Hi Curtis,

Our same comment from the original application back in September 2017 still applies for this revised application.

Thanks!

Xenia



Xenia Pasiiecznik
Engineering Technologist
Public Works

e: xpasiiecznik@pelham.ca
p: 905.892.2607 x330
pelham.ca

20 Pelh
P.O. Bc
Fonthil

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Curtis Thompson

From: William Underwood
Sent: January-30-18 10:13 AM
To: Curtis Thompson
Cc: Bob Lymburner
Subject: RE: Request for Updated Fire Comments B30/2017 (1022 Pelham St)

Hi Curtis,

Fire has no comments for the revised plan.

Regards,

Will



William Underwood, CFEI
Fire Prevention Officer
Fire & By-Law Services

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

177 Highway 2
P.O. Box 323
Fonthill, ON L8T 1G1



Opening

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www.Facebook.com/Pelhamfire

From: Stuart Macpherson [mailto:
Sent: Tuesday, January 16, 2018 9:56 PM
To: Nancy Bozzato
Subject: File B30/2017P

Hello,

I am writing to OBJECT to the proposal being made by 4 HIGH STREET INC in their application for consent for a right of way on their property. While I will try to attend the hearing, and wish to be heard, just in case here is the basis of my objection;

1. The intersection of Pelham Street and Welland / Quaker has already become too busy for the existing street design. During "rush hours" in the morning, cars are lined up well past Michaela Cres waiting to turn left onto Pelham Street. This was possible before the roadway was changed and proper curbs added in 2017 when Circle K was built, but now the road is too narrow for a right-turn lane, and the line-ups are long. Many vehicles llined up there include at least 8

school busses that use Welland Road every morning for student pick-up. Adding another access point to Welland Rd reet between Michaela and Pelham Street is foolish and dangerous.

2. When I drive home every day in the afternoon, I see cars Northbound on Pelham St swerve into Circle K parking lot as soon as the northbound light at the Pelham Street / Welland Rd intersection turns red. Every day drives pull into the gas station lot, drive at speed along the south side of the station, turn south and exit the Circle K lot onto welland road and head west, circumventing the red light. Drivers are already using the Circle K lot to avoid and dangerously get around traffic. Making a legal access point only give more drivers the right and motivation to perform this dangerous act.

3. It is my understanding that the applicant hopes to build homes and more businesses on PArt 4 and Part 1 of the map you provided. There is no possible way a fire truck can make that turn into the lot coming from the West down Welland Road. Also, depending on the popularity of the businesses, and density of the residences proposed, you are creating an intersection 33.22m from a "major" intersection. This again is foolish and hazardous.

4. It seems to me that the applicant wishes to apply GTA esque planning principles to out Town. Staff and Council should not allow this. This is not Brampton or Mississauga where land is scarce. This applicant failed to plan effectively and is now asking this Town and its residents to adapt because of it. I understand that the applicant wants to maximize the profit they can generate from their land acquisition, but their failure to do due diligence and understand the planning act and principles Pelham uses is not the fault of the Town or the residents. They should have to adapt their expectations and honour the community in which they have decided to invest. We already have evidence that this applicant does in fact NOT do that. In the year or so that they have been developing the land, residents have made dozens of complaints about the poor condition of the property, incomplete sidewalks and embarrassing landscaping. Already, these applicants have disrespected the Community in which they decided to invest. Again, it is not our fault they did not do their due diligence in investigating our community, and we should not be subject to their demands in the interest of their profits.

Thank you,

Stuart Macpherson
Michaela Cres
Fonthill, ON L0S1E4

[REDACTED]

From: Murray Downie [[mailto:\[REDACTED\]](mailto:[REDACTED])]
Sent: Monday, January 22, 2018 12:10 PM
To: Nancy Bozzato
Cc: Nancy Bozzato
Subject: Committee of Adjustment - Revised File B30/2017P by 4 High Street Inc.

To the Committee of Adjustment

We have 2 concerns with the application for a right-of-way in perpetuity through the property known as 1022 Pelham Street.

1. When this Application was previously presented to the Committee of Adjustment, Pelham Emergency Services reported that they had no concerns. I was a bit surprised by this as the attached photo shows that the right-of-way location is also shared by parked fuel delivery trucks. I expect the need for emergency vehicles requiring access at the same time as a fuel truck is parked is likely to be an infrequent occurrence and perhaps that is why Emergency Services had no concerns. The sketch attached to the application shows the possibility of additional gas pumps being added which would further constrict access.
2. The revised application shows the right-of way extended 20 ft. to the south. This now puts the entrance to Part 4 directly in line with my backyard at [REDACTED] Michaela Crescent (Lot 17 on the on the Applicant's sketch). When we purchased this property in 2001 we never envisioned having vehicle lights shining into our backyard. Since I have no knowledge of what is actually proposed to be built in Part 4, what will be done to prevent vehicle lights from shining into my backyard? Will the townhouses be laid out in such a way as to block vehicle lights or will a wall be built to protect our privacy? We are very interested in preserving the tranquility of our backyard.

Murray and Helen Downie
[REDACTED] Michaela Crescent



Meeting #: CoA-01/2018
Date: Tuesday, January 9, 2018
Time: 4:00 pm
Location: Town of Pelham Municipal Office - Council Chambers
 20 Pelham Town Square, Fonthill
Committee of Adjustment Hearing Minutes

Members Present James Federico
 Brian DiMartile
 Donald Cook
Members Absent Wayne Locky
 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 James Federico 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 received.

5. **Applications for Minor Variance**

5.1 **File A1-2018P - Peggy Deneau & John Oudshoorn**

Purpose of the Application

The subject land is zoned Residential "R1" in accordance with Pelham Zoning By-law 1136(1987), as amended. Relief is sought from Section 13.2(g) "Minimum Rear Yard" - seeking 4.57 metres whereas 7.5 metres

is required. Relief is sought to accommodate an enclosed covered patio addition.

Representation

John Oudshoorn and Peggy Deneau, registered owners, appeared on behalf of the application.

Correspondence Received

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

Applicant's Comments

No comment were received.

Public Comments

No comment were received.

Members Comments

No comment were received.

Moved By Brian DiMartile

Seconded By Donald Cook

Application for relief of section 13.2(g) "Minimum Rear Yard" - seeking 4.57 metres whereas 7.5 metres is required, to accommodate an enclosed covered patio addition, is hereby: GRANTED.

The above decision is based on the following reasons:

- 1. The variance is minor in nature in that the existing covered porch is not being increased in size and no negative impacts are anticipated by the neighbours.**
- 2. The general purpose and intent of the Zoning By-Law is maintained in that it maintains a satisfactory setback as well as an adequate amenity area in the rear yard.**
- 3. The intent of the Official Plan is maintained in that reasonable distance buffers the surrounding area and no negative impacts are anticipated by the neighbours.**
- 4. The proposal is desirable for the appropriate development and/or**

use of the land in that the addition increases the livable floor space and maintains adequate rear and side 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 must be obtained prior to construction commencing, to the satisfaction of the Town of Pelham Chief Building Official.

Carried

5.2 File A2-2018P - Dick John & Sheila Ann Klyn-Hesselink

Purpose of the Application

The subject land is zoned Agricultural "A" in accordance with Pelham Zoning By-law 1136(1987), as amended. The application is made to seek relief from Section 7.2(e) "Minimum Side Yard" - seeking 42.8 metres whereas 46 metres is required, to facilitate construction of a one-story barn addition. Section 7.2(e) "Minimum Side Yard" - Seeking 10 metres whereas 46 metres is required, to facilitate construction of a future barn.

Representation

David Klyn-Hesselink, authorized agent, appeared on behalf of the application.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Public Works Department
3. Town of Pelham Fire & By-Law Services
4. Scott and Lynda Tyler

Applicant Comments

Mr. Klyn-Hesselink advised that they are expanding their Agricultural operation in North Pelham and they need a new storage facility therefore, the Minor Variance request for the construction of a future barn expansion was added late in the application process after being advised by Planning Staff that this could be sought after for future development. Mr. Klyn-Hesselink advised that they are understanding of the height restriction and are willing to work with Planning Staff to consider other options and resubmit a Minor Variance Application for the future barn, given the concerns of the neighbours.

Public Comments

Scott and Lynda Tyler - advised that their objection is with the application for a future barn for a 10 metre setback. Mr. Tyler advised that a number of years ago they were not opposed to Mr. Klyn-Hesselink's proposal for an addition to the current barn but they strongly object to the future barn in the proposed location. Their house is located close to that location and they have concern for dust and noise. Mr. Tyler commented that this is a busy property and they are hoping that construction for the future barn can be relocated because it is too close to their property.

Members Comments

A member commented that his concern is that the new barn is going to be 25m x 8m with no height restrictions and it could be parallel to the current barn.

Mr. Klyn-Hesselink responded by saying that orchards have to be planted north/south therefore, he agrees that relocation and the height of the future barn needs to be reconsidered, in consultation with Planning Staff.

A member asked Mr. Tyler how long has he lived at this location. Mr. Tyler advised he has lived in this location for 20 years.

Moved By Donald Cook

Seconded By Brian DiMartile

Application for relief of Section 7.2(e) "Minimum Side Yard" – seeking 42.8 metres whereas 46 metres is required, to facilitate construction of a one-story barn addition, is hereby: GRANTED.

The above decision is based on the following reasons:

1. The variance is minor in nature in that it maintains the current setback of the existing farm building which has not created any

adverse impacts;

2. The general purpose and intent of the Zoning By-Law is maintained in that adequate distance is maintained between the nearest residential dwelling and no adverse impacts are anticipated;
3. The intent of the Official Plan is maintained in that the Specialty Agricultural designation is designed to implement the Greenbelt Plan and no adverse impacts are anticipated;
4. The proposal is desirable for the appropriate development and/or use of the land in that it will facilitate the development of an expanding agricultural operation.
5. 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 respecting Section 7.2(e) Minimum Side Yard requesting 42.8 metres, be approved;

The above decisions are subject to the following conditions:

1. That all necessary building permits must be obtained prior to construction commencing, to the satisfaction of the Town of Pelham Chief Building Official.

Carried

Moved By Donald Cook

Seconded By Brian DiMartile

Application for relief of Section 7.2(e) "Minimum Side Yard" – seeking 10 metres whereas 46 metres is required, to facilitate construction of a future barn, is hereby:

REFUSED.

The above decision is based on the following reasons:

1. The variance is not minor in nature in that, reducing the southerly side yard setback to 10m for the future barn is not minor overall because adverse impacts could be greater considering the lack of any height restrictions on agricultural buildings and the "protections" associated with normal farm practices in the Province of Ontario and the impact of those practices on the neighbouring existing residential dwelling.
2. The general purpose and intent of the Zoning By-Law is not maintained in that, reducing the side yard setback to 10m for the future barn may compromise the general intent of the Zoning By-law in that the large setbacks required by the agricultural uses are meant to buffer non-agricultural uses which may be incompatible with normal farm practices; and the lack of a height limit on agricultural

buildings is considerably tied to the increased setback requirement.

3. The intent of the Official Plan is not maintained in that, reducing the side yard setback to 10m for the future barn may compromise the general intent of the Official Plan regarding inadvertently creating adverse impacts on the adjacent land use given normal farm practices which are commonly associated with agricultural facilities.

4. The proposal is not desirable for the appropriate development and/or use of the land.

5. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application does not meet the Planning Act tests for minor variance respecting Section 7.2(e) Minimum Side Yard requesting 10 metres, therefore the application be denied because all four tests under the Planning Act, are not met.

Carried

5.3 A3-2018P - David & Lynda Spackman

Purpose of the Application

The subject land is zoned Residential 1 "R1-187" in accordance with Pelham Zoning By-law 1136(1987), as amended by 3325(2012) and 3402(2013). The application is made to seek relief from Section 30-187(k) exceptions which states that there shall be no buildings or structures including pools permitted within 15 metres of rear lot line whereas 7.5 metres is requested to facilitate construction of a pool.

Representation

David & Lynda Spackman, registered owners, appeared on behalf of the application.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham By-law Department
3. Town of Pelham Public Works Department

Applicant Comments

No comments were received.

Public Comments

No comments were received.

Members Comments

A member expressed concern regarding the impact the pool would have on the drainage system however, he is satisfied with a condition that the applicant must ensure that all side and rear yard swales stay free of obstruction and debris to ensure overland drainage flows freely.

Moved By Brian DiMartile

Seconded By Donald Cook

Application for relief from Section 30-187(k) exceptions which states that there shall be no buildings or structures including pools permitted within 15 metres of rear lot line whereas 7.5 metres is requested to facilitate construction of a pool, is hereby:

GRANTED.

The above decision is based on the following reasons:

- 1. The variance is minor in nature in that no adverse impacts are anticipated.**
- 2. The general purpose and intent of the Zoning By-Law is maintained in that sufficient setback is maintained to the woodland and stable top-of-bank.**
- 3. The intent of the Official Plan is maintained in that the requested variance will have minimal impact on the landscape.**
- 4. The proposal is desirable for the appropriate development and/or use of the land in that the rear yard amenity area is being maintained and the installation of an in-ground pool is considered to be part of the rear yard amenity area.**
- 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 pool/building permits shall be circulated to the NPCA for their review and approval to incorporate any mitigation measures, deemed necessary.**
- 2. That all necessary building permits must be obtained prior to construction commencing, to the satisfaction of the Town of Pelham**

Chief Building Official.

3. That the applicant must ensure that all side and rear yard swales stay free of obstruction and debris to ensure overland drainage flows freely, to the satisfaction of the Director of Public Works & Utilities.

Carried

7. Minutes for Approval

Moved By James Federico

Seconded By Donald Cook

That the minutes of the December 5, 2017, Committee of Adjustment Hearing be approved.

Carried

8. Adjournment

Moved By Donald Cook

Seconded By Brian DiMartile

BE IT RESOLVED THAT this Meeting of the Committee of Adjustment Hearing be adjourned until the next regular meeting scheduled for February 6, 2018 at 4:00 pm.

Carried

James Federico, Chair

Secretary-Treasurer, Nancy J. Bozzato