

Committee of Adjustment AGENDA

10/2019

October 1, 2019

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 B8/2019P - 82, 84, 90 Canboro Road

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1. Town of Pelham Planning Department
2. Town of Pelham Public Works
3. Town of Pelham Building Department
4. Franz Tauss and Edda Tauss

7. Minutes for Approval

9

June 5, 2019

8. Adjournment

October 1, 2019

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

Re: Consent Application B8/2019P
82, 84 & 90 Canboro Road, Pelham
Part of Block 'U' on Plan 717, Part of Lot 37 on Registered Plan 722, and Part 2 on RP 59R-13664
Roll No. 2732 030 006 16700

The subject parcel, shown as Part 1 on the attached sketch, has 45.317 m of frontage on the south side of Canboro Road, lying east of Daleview Crescent, legally described above and known municipally as 82, 84 & 90 Canboro Road in the Town of Pelham.

Application is made for consent to partially discharge a mortgage, to mortgage / credit and to convey 1720 m² of land (Part 1) for continued multi-residential use being 82 & 84 Canboro Road. 2000 m² of land (Part 2) is to be retained for continued use of the triplex dwelling known as 90 Canboro Road.

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 1.1.1 states healthy, liveable and safe communities are sustained by promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term.

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.

Planning staff note that this severance application does not correlate with *intensification* via an increased housing unit density as a result of the new lot. This is because all of the dwelling units situated on the property legally exist, and the separation (conveyance) of buildings on separate parcels does not induce more development because the current zoning regulations in effect do not stipulate any number of dwelling units per lot, as would be the case in the R1 or R2 zones (i.e. one (1) house per lot). Any new construction would require a Site Plan Approval, and perhaps further zoning or minor variance approval depending on the design.

On urban severance applications of this type, municipal Planning staff are principally concerned with the proposed shape and configuration of any new or remnant lots as there may be implications on future development opportunities. For example, an irregularly shaped lot might hinder future construction opportunities, parking or amenity areas.

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 Fonthill and commercial areas along Highway 20 West / Haist Street.

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 Fonthill and the role the Town will need to accommodate various forms of residential dwelling units and intensifications, where appropriate.

Please note that despite this application seeking to create a new lot, no new development is proposed. The application indicates there will be no change at this time. In the future, if new development is proposed further *Planning Act* approvals may be required.

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:

- a) Fronts on and directly accessed by a public road;
✓ Yes.
- b) Will not cause a traffic hazard as a result of its location;
✓ No construction or driveway alterations are proposed.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
✓ Yes.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
✓ Yes.
- e) Will not have a negative impact on the drainage patterns in the area;
✓ No change.
- f) Will not affect the develop ability of the remainder of the lands;
✓ Both Parts 1 and 2 maintain sufficient lot frontage and lot area to support a variety of potential future infill options.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area.
✓ No change.

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

The subject land is zoned 'Residential Multiple 2' (RM2) according to the Zoning By-law which permits



apartment dwellings and related accessory uses.

Apartment dwellings are defined as a dwelling other than a triplex dwelling, containing 3 or more dwelling units accessible from a corridor system connecting with a common entrance from outside the building.

It is noted that both the severed and retained lots will comply with both the minimum lot frontage and lot depth provisions under Sections 17.2 (b-c). Confirming zoning compliance with the minimum lot area requirement of 150m² / unit is less straight forward because all of the existing buildings on the subject lands are considered *legal non-conforming* uses as their construction pre-dated the Town's Zoning By-law. However, based on the proposed lot areas of Part 1 (1720m²) and Part 2 (2000m²), technically 11 units would comply with the lot area and maximum density provisions for Part 1 while 13 units would satisfy the same for Part 2, subject to other applicable regulations (i.e. minimum parking, building setbacks etc.).

Agency and Public Comments

On August 28th, 2019, 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 (September 20, 2019)
 - No comments.
- Public Works Department (September 19, 2019)
 - {see conditions and Appendix}

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

- Frank / Edda Tauss (September 23, 2019)
 - Oppose construction of any new rental housing.
 - ✓ No new building construction is proposed. It is noted the property is zoned RM2 (Residential Multiple 2) which permits apartment dwellings and redevelopment could hypothetically take place without the need for any severance application.

Planning Staff Comments

The current application deals with the severance of 1720 m² of land (Part 1) from the existing 2000 m² of land (Part 2). The subject lands (Part 1) support a single detached dwelling (82 Canboro Rd) and detached second dwelling unit above a 2-car garage (84 Canboro Rd) while the remnant lands (Part 2) supports a triplex dwelling. All existing residential uses are proposed to continue, and it is not known whether this will change in the near future.

The proposed severance is within an established neighbourhood of residential dwellings near Downtown and the Highway 20 West commercial corridor of Fonthill's *Urban Area*.

The application was accompanied by a Planning Justification Brief prepared by John Perry, RPP dated August 9, 2019. It should be noted that in response to section 51 (24) f) of the *Planning Act*, the consultant has stated that the irregular jog of the proposed lot line to the south (rear of 109 Daleview Drive) is intended to provide



space for a future accessory building for Part 2 (90 Canboro Rd). Planning staff would have preferred the new lot line to extend southeast, connecting with the northwest corner of 109 Daleview Drive as this is a more natural and practical lot configuration. However, the irregularity is minor in nature because both lots have ample space in that area and they're large enough to be used for a number of alternative future uses (i.e. amenity, shed, parking etc.).

Planning staff is of the opinion that the proposed severance is appropriate and note that no new development is proposed at this time. Any new development would be subject to potential *Planning Act* approvals.

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

- Ensure both lots are serviced with individual 20mmØ water services and 125mmØ sanitary sewer laterals in accordance with Town standards. Installation of any missing services will require Temporary Works Permit(s) to be obtained and approved by the Public Works Department at the applicant's expense and to the satisfaction of the Director of Public Works. Locate cards must also accompany the installation of any new services.
- Submit a drawing indicating the location of individual water services and sanitary laterals to both lots confirming no existing water or sanitary laterals cross the proposed lot line servicing another parcel of private property.
- 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 \$387, 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.

Prepared by,



Curtis Thompson
Planner, B.URPI

Approved by,



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



Memorandum

Public Works Department - Engineering

DATE: September 19, 2019
TO: Curtis Thompson, Planner
CC: Nancy J. Bozzato, Clerk; Holly Willford, Deputy Clerk; Jason Marr,
Director of Public Works
FROM: Xenia Pasiecznik, Engineering Technologist
RE: File B8/2019P
82, 84 & 90 Canboro Road

We have completed the review of the consent application B8/2019P for consent to partial discharge of mortgage and to convey 0.172 hectare (Part 1) for continued use of the dwellings known municipally as 82 and 84 Canboro Road. 0.200 hectare of land (Part 2) is to be retained for continued use of the dwelling known as 90 Canboro Road.

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

1. That the applicant ensures that all lots are serviced with individual 20 mm water service and 125 mm sanitary sewer lateral in accordance with Town of Pelham standards. Installation of any missing services will require permits obtained and approved by the Public Works Department. The provision of any missing services shall be completed through a Temporary Works Permit prior to consent and the applicant shall bear all costs associated with these works (design, construction, etc.).
2. That the applicant submits a drawing that indicates the location of the individual water service and sanitary lateral for all lots to confirm no existing water or sanitary services branch from or through the proposed lots to other lands, and from or through the remaining parcel to other lands. If installation of new services is required, locate cards shall be submitted upon completion.

To: Nancy Bozzato, Holly Willford

Cc: Curtis Thompson, Sarah Leach

From: Belinda Menard, Building Intake/Plans Examiner
Community Planning & Development

Date: September 20, 2019

Subject: Building Comments on Applications to the Committee of Adjustment for
Consents – October 1, 2019 hearing. **File B8/2019P**

Comment:

Building department offers no comment at this time.

Belinda Menard
Building Intake/Plans Examiner
Community Planning & Development

From: [Holly Willford](#)
To: [Holly Willford](#)
Subject: development (s) at 82 & 84 Canboro Road
Date: Thursday, September 26, 2019 11:48:13 AM

From: Franz Tauss [REDACTED]
Sent: Sunday, September 22, 2019 1:12 PM
To: Nancy Bozzato <NBozzato@pelham.ca>
Subject: Fwd: development (s) at 82 & 84 Canboro Road

Hello

We oppose any construction of new rental housing on the property on 82 & 84 Canboro Road.

We request you to make sure you will keep us informed of the decision of the Committee of Adjustment.

We assume a decidedly unfavourable agenda to the residents affected is in the planning.

Our property abuts directly on 82 & 84 on Canboro Road. Our address is [REDACTED] Daleview Drive.

Should there not be a Public notice sign on Daleview Drive? There is only one sign on Canboro Road.

Why has Ron Kore not been informed about this meeting on October 1?

We believe in professional courtesy to inform all six councillors.

Sincerely

Franz Tauss and Edda Tauss

Meeting #: 06/2019
Date: Wednesday, June 5, 2019
Time: 4:00 pm
Location: Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

Members Present Donald Cook
John Klassen
Bernie Law

Staff Present Nancy Bozzato
Holly Willford

Others Present Applicants, Agents and Interested Parties

1. Attendance

Applicants, agents, and interested parties.

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

Noting that a quorum was present, Chair Cook 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

None.

4. Requests for Withdrawal or Adjournment

Holly Willford, Assistant Secretary-Treasurer indicated there have been no requests for withdrawal or adjournment.

Ms. Willford requested that applications A3/2019, A15/2019 and A16/2019 to be heard prior to the Stella Street Applications and further to hear the Stella Street Consent Applications prior to the Stella Street Minor Variances. The Committee agreed by consensus.

5. Applications for Minor Variance (excluding Stella Street)

5.1 A3/2019P - 245 Farr Street

Purpose of Application

Application for relief, pursuant to Section 7.4 (f) "Minimum Side Yard" to permit a side yard of 4.5m whereas the by-law requires 9m.

Representation

The Applicant's Agent was present.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Public Works
3. Town of Pelham Building Department
4. Niagara Region Planning & Development Services

Applicant's Comments

The Agent had no comments.

Public Comments

Irene Kerkhoven, stated she has concerns regarding the septic system and drainage as there is currently a pond on the property where the proposed house is to be constructed. She further indicated there is exiting drainage issues on the property.

Members Comments

The Committee Members discussed the size of the lot in relation to the house, drainage issues, and septic requirements. Chair Cook, provided some history regarding the creation of the lot, which was created by testamentary devise.

The Members determined in addition to the conditions recommended by the Planning Department, the Committee would like to impose an additional condition that a lot grading and drainage plan be submitted to the satisfaction of the Niagara Region.

Moved By John Klassen

Seconded By Bernie Law

Application is made for relief of Section 7.4 (f) “Minimum Side Yard” to permit a side yard of 4.5m whereas the by-law requires 9m, is hereby: GRANTED.

The above decision is based on the following reasons:

- 1. The variance is minor in nature and no negative impacts are anticipated for the subject land or neighbouring property.**
- 2. The general purpose and intent of the Zoning By-Law is maintained as large buffers are maintained between the neighbouring parcels.**
- 3. The intent of the Official Plan is maintained.**
- 4. The proposal is desirable for the use of the land because it will encourage the dwelling to be located further away from the septic bed.**
- 5. This application is approved 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 does not meets the Planning Act tests for minor variance.**

The above decision is subject to the following conditions:

- 1. Obtain approval for a septic system permit to be issued by the Region of Niagara.**
- 2. That all necessary building permits are required prior to construction commencing for the new addition, to the satisfaction of the Chief Building Official.**
- 3. Obtain all necessary entrance and culvert permits to the satisfaction of the Director of Public Works prior to gaining access from the Town right-of-way.**

4. To submit a detailed *Lot Grading & Drainage Plan* with the **Septic Permit Application** and obtain approval of the same, to be issued by the Region of Niagara.

Carried

5.2 A15/2019P - 630 Kilman Road

Purpose of Application

Application for relief, pursuant to Section 7.7 (d) “Maximum Accessory Building Height” to permit a maximum accessory building height of 5m whereas the by-law permits 3.7m.

Representation

The Agent for the Applicant was present.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Public Works
3. Town of Pelham Building Department
4. Niagara Region Planning & Development Services
5. Agrapides Family Correspondence

Applicant's Comments

The Agent indicated the carriage house would be set back from the road and not visible to neighbours.

Public Comments

There were no comments received from the public.

Members Comments

Chair Cook stated that although the variance is for height he has concerns the carriage house may be converted into a secondary suite in the future.

Moved By Bernie Law

Seconded By John Klassen

Application is made for relief of Section 7.7 (d) “Maximum Accessory Building Height” to permit a maximum accessory building height of 5m whereas the by-law permits 3.7m as required, is hereby: GRANTED.

The above decision is based on the following reasons:

- 1. The variance is minor in nature given the rural context and no negative impacts are anticipated by the adjacent neighbors as over 60m separates the nearest residential neighbour from the building site.**
- 2. The general purpose and intent of the Zoning By-Law is maintained as the increased height will not adversely impact the agricultural character of the area or the surrounding countryside**
- 3. The intent of the Official Plan is maintained.**
- 4. The proposal is desirable for the appropriate use of the land as it allows for enhanced storage and personal use of the property.**
- 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. All necessary building permits are required prior to construction commencing, to the satisfaction of the Chief Building Official, and no additional plumbing fixtures, other than those required for one washroom, as per the supplied *Floor Plan*, be installed within the proposed accessory building at the time of building permit.**

Carried

5.3 A16/2019P - 970 Webber Road

Purpose of Application

Application for relief, pursuant to Section 7.7 (a) “Maximum (Accessory) Lot Coverage” to permit a maximum lot coverage of 2.3% whereas the by-law permits 1%, Section 7.7 (b) “Minimum (Accessory) Side Yard” to permit a minimum side yard of 1.25m whereas the by-law requires 3m, and Section 7.7 (d) “Maximum (Accessory) Building Height” to permit a maximum building height of 5.64m whereas the by-law permits a maximum height of 3.7m.

Representation

The Applicant was present.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Public Works
3. Town of Pelham Building Department
4. Niagara Region Planning & Development Services
5. Niagara Peninsula Conservation Authority

Applicant's Comments

The Applicant indicated the minor variance requests are to facilitate an RV to be parked in the garage and that he would be able to bring the side yard set back to the required 3m without issue.

Public Comments

There were no comments received from the public.

Members Comments

There were no comments made by the Committee Members.

Moved By John Klassen

Seconded By Bernie Law

Application is made for relief of Section 7.7 (a) “Maximum (Accessory) Lot Coverage” to permit a maximum lot coverage of 2.3% whereas the by-law permits 1% and Section 7.7 (d) “Maximum (Accessory) Building Height” to permit a maximum building height of

5.64m whereas the by-law permits a maximum height of 3.7m, is hereby: GRANTED.

The above decision is based on the following reasons:

- 1. The variance is minor in nature overall given the amount of landscaped open space available on the property which continues to allow for storm water penetration, existing septic system needs, and amenity area and adequate distance buffers the accessory building from nearby neighbours**
- 2. The general purpose and intent of the Zoning By-Law is maintained as the variance will not adversely impact the rural character of the area or the surrounding countryside.**
- 3. The intent of the Official Plan is maintained.**
- 4. The proposal is desirable for the appropriate use of the land as it will allow for enhanced storage and use of the structure.**
- 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. To the satisfaction of the Chief Building Official**
 - i. That all necessary building permits are required prior to construction commencing are obtained.**
- 2. To the satisfaction of the Director of Community Planning & Development**
 - ii. That a redesigned garage Elevation Plans that contribute more positively to the public and private realm through the use of windows symmetrically proportionate to the building's mass, as well as a more congruent use of**

exterior cladding, (i.e. Avoiding the use of different cladding materials per façade) be submitted and approved.

3. To the satisfaction of the Director of Public Works
 - i. At the time of building permit, submit an updated Lot Grading & Drainage Plan to the satisfaction of the Director of Public Works
 - ii. To the satisfaction of Niagara Region Planning & Development Services
 - iii. Submit an updated Lot Grading & Drainage Plan to the satisfaction of Niagara Region Planning & Development Services.

Application for relief, pursuant to Section 7.7 (b) “Minimum (Accessory) Side Yard” to permit a minimum side yard of 1.25m whereas the by-law requires 3m, is hereby: REFUSED.

The above decision is based on the following reasons:

1. The variance is not minor in nature given the site context which experiences poor drainage conditions.
2. The general purpose and intent of the Zoning By-Law is not maintained.
3. The intent of the Official Plan is not maintained and the application was not accompanied by any demonstrated need on the basis that the subject zoning provision is not warranted, causes undue hardship, or is otherwise impossible to comply with (Policy E1.5).
4. The proposal is desirable for the use of the land as it will maximize the usable land in the rear yard for amenity space.
5. This application is refused without prejudice to any other application in the Town of Pelham.
6. 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.

Carried

5.4 A17/2019P - 210 Farr Street

Purpose of Application

Application for relief, pursuant to Section 7.4 (f) “Minimum Side Yard” to permit a minimum southerly side yard of 8.5m whereas 9m is required to facilitate the construct a proposed detached dwelling.

Representation

The Applicant’s Agent was present.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Public Works
3. Town of Pelham Building Department
4. Niagara Region Planning & Development Services
5. Niagara Peninsula Conservation Authority

Applicant's Comments

The Agent had no comments.

Public Comments

Phyllis Kerkhoven indicated she had concerns with the lot being under an acre in size and suggested perhaps the owner of the subject property could purchase additional lands from the neighbours to make the parcel of land a full acre.

Members Comments

The Members determined in addition to the conditions recommended by the Planning Department, the Committee would like to impose an additional condition that a lot grading and drainage plan be submitted to the satisfaction of the Town of Pelham Public Works Director.

Moved By John Klassen

Seconded By Bernie Law

Application is made for relief of Section 7.4 (f) “Minimum Side Yard” to permit a minimum southerly side yard of 8.5m whereas 9m is required to facilitate the construct a proposed detached dwelling, is hereby: GRANTED.

The above decision is based on the following reasons:

- 1. The variance is minor in nature given the rural area.**
- 2. The general purpose and intent of the Zoning By-Law is maintained.**
- 3. The intent of the Official Plan is maintained.**
- 4. The proposal is desirable for the appropriate use of the land as it will encourage the dwelling to be located further away from the septic bed.**
- 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 to the satisfaction of the Chief Building Official.**
- 2. To submit a detailed *Lot Grading & Drainage* Plan with the Septic Permit Application and obtain approval of the same, to be issued by the Region of Niagara.**
- 3. At the time of building permit, submit a detailed Lot Grading & Drainage Plan to the satisfaction of the Director of Public Works at the Town of Pelham.**

Carried

6. Applications for Consent

6.1 B3/2019P - 36 Stella Street

Purpose of Application

Application is made to seek consent to convey (Parts 3, 5, 6 and 7), partial discharge of mortgage of 626 square metres of land for a single family residential dwelling and to establish an easement in perpetuity over Parts 6 and 7 in favour of Bell Canada to protect existing buried facilities and supply services. 801 square metres of land (Part 1 and 8) is to be retained for one single residential dwelling.

Representation

The Applicant and Applicant's Agent was present.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Public Works
3. Town of Pelham Building Department
4. Bell Canada
5. Michael Whittaker Correspondence
6. Marion Whittaker Correspondence

Applicant's Comments

The Applicant's Agent indicated they were happy with the planning report.

Public Comments

Michael Whittaker indicated the planning department report did a good job identifying his concerns. He stated he is most concerned about the tulip trees on the property and would like to see them remain.

Members Comments

A Member asked Curtis Thompson, Planner if the planning report takes into account the surrounding residents feelings when reviewing applications. Mr. Thompson indicated the planning report does consider the surrounding neighbour's feelings and stated planning staff included a recommended condition regarding the trees on the property, which was

based on resident feedback. Mr. Thompson further cited the provincial policies which speak to intensification and infill.

Chair Cook expanded on Mr. Thompson's sentiments regarding the provincial policy, local municipal official plans and the requirement of intensification.

Through conversation the Members determined they wished to amend the recommended condition regarding the trees on the property to indicate the owner must submit a tree preservation plan to the satisfaction of the Town of Pelham Public Works Director. When asked, the Applicant indicate it is the owner's intention to keep the two mature trees referenced. The Applicant voiced some concerns regrading the ability to preserve the trees, but indicated he would try his best.

It was noted by the Committee the same revised conditions would apply to application B4/2019P.

Moved By John Klassen

Seconded By Bernie Law

Application is made to seek consent to convey (Parts 3, 5, 6 and 7), partial discharge of mortgage of 626 square metres of land for a single family residential dwelling and to establish an easement in perpetuity over Parts 6 and 7 in favour of Bell Canada to protect existing buried facilities and supply services. 801 square metres of land (Part 1 and 8) is to be retained for one single residential dwelling., is hereby: GRANTED

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.

The above decision is subject to the following conditions:

1. Public Works

- i. Ensure each lot is serviced with an individual 20 mm Ø water service and 125 mm Ø sanitary sewer lateral in accordance with Town standards. Installation of any service will require a Temporary Works Permit(s) to be obtained and approved by the Public Works Department. If existing services are proposed for reconnection, such services shall be inspected by the Public Works Department to determine their condition is satisfactory prior to connection. The applicant shall bear all costs associated with these works.**
- ii. Submit an updated drawing indicating the locations of the individual water service and sanitary laterals for all lots to confirm no existing service branches from, or through any proposed lot lines to other lands, and from or through the remnant parcel to other lands. Locate cards for all lots shall be required after the installation of new services.**
- iii. Submit an updated drawing indicating the location of all missing trees, and what is proposed for them following development (construction / driveway installation), to the satisfaction of the Director of Public Works.**
- iv. Submit a comprehensive overall lot grading & drainage plan for all parcels demonstrating that the drainage neither relies upon nor negatively impacts neighbouring properties, and that all drainage will be contained within the respective boundaries of the new parcel, to the satisfaction of the Director of Public Works.**
- v. Obtain approval for a Driveway Entrance & Culvert Permit for all entrances for all lots issued through the Public Works Department, to Town standards. This includes the removal of the existing entrance on John Street. The applicant shall bear all costs associated with these works.**

2. Community Planning and Development

- i. Sign the Town of Pelham’s standard “Memorandum of Understanding” explaining that development charges and cash-in-lieu of the dedication of land for park purposes are required prior to the issuance of a Building Permit.**

3. Secretary-Treasurer

- i. 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.**
- ii. That the final certification fee of \$387, 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.**

Bell Canada

- i. Obtain approval for the conveyance of a perpetual easement over the western limits of the subject lands, to the benefit of Bell Canada for continued maintenance and protection of existing telecommunications infrastructure, to the satisfaction of Bell Canada.**

Carried

6.2 B4/2019P - 36 Stella Street

Purpose of Application

Application is made to seek consent to convey and partial discharge of mortgage of 651 square metres of land for a single family residential dwelling, shown as Parts 2 and 4 on the drawing submitted, being part of Lot 10, Plan 670, in the Town of Pelham.

Representation

The Applicant and Applicant’s Agent was present.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Public Works
3. Town of Pelham Building Department
4. Bell Canada
5. Michael Whittaker Correspondence
6. Marion Whittaker Correspondence

Applicant's Comments

The Applicant's Agent had no comments.

Public Comments

There were no comments received from the public.

Members Comments

The Committee discussed amended conditions to be applied to mirror those of application B3/2019P

Moved By Bernie Law

Seconded By John Klassen

Application is made to seek consent to convey and partial discharge of mortgage of 651 square metres of land for a single family residential dwelling, shown as Parts 2 and 4 on the drawing submitted, being part of Lot 10, Plan 670, in the Town of Pelham., is hereby: GRANTED

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.

The above decision is subject to the following conditions:

1. Public Works

- i. Ensure each lot is serviced with an individual 20 mm Ø water service and 125 mm Ø sanitary sewer lateral in accordance with Town standards. Installation of any service will require a Temporary Works Permit(s) to be obtained and approved by the Public Works Department. If existing services are proposed for reconnection, such services shall be inspected by the Public Works Department to determine their condition is satisfactory prior to connection. The applicant shall bear all costs associated with these works.**
- ii. Submit an updated drawing indicating the locations of the individual water service and sanitary laterals for all lots to confirm no existing service branches from, or through any proposed lot lines to other lands, and from or through the remnant parcel to other lands. Locate cards for all lots shall be required after the installation of new services.**
- iii. Submit an updated drawing indicating the location of all missing trees, and what is proposed for them following development (construction / driveway installation), to the satisfaction of the Director of Public Works.**
- iv. Submit a comprehensive overall lot grading & drainage plan for all parcels demonstrating that the drainage neither relies upon nor negatively impacts neighbouring properties, and that all drainage will be contained within the respective boundaries of the new parcel, to the satisfaction of the Director of Public Works.**
- v. Obtain approval for a Driveway Entrance & Culvert Permit for all entrances for all lots issued through the Public Works Department, to Town standards. This includes the removal of the existing entrance on John Street. The applicant shall bear all costs associated with these works.**

2. Community Planning and Development

- i. **Sign the Town of Pelham’s standard “Memorandum of Understanding” explaining that development charges and cash-in-lieu of the dedication of land for park purposes are required prior to the issuance of a Building Permit.**

3. Secretary-Treasurer

- i. **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.**
- ii. **That the final certification fee of \$387, 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.**

Carried

6.3 B5/2019P - 36 Stella Street

Purpose of Application

Application is made to seek consent to convey an easement in perpetuity over Part 8 in favour of Bell Canada to protect existing buried facilities and supply services and a partial discharge of mortgage of 26 square metres of land. 801 square metres of land (Part 1 and 8) is to be retained for one single residential dwelling.

Representation

The Applicant and Applicant’s Agent was present.

Correspondence Received

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

Applicant's Comments

The Applicant’s Agent had no comments.

Public Comments

There were no comments received from the public.

Member

There were no comments made by Members.

Moved By John Klassen

Seconded By Bernie Law

Application is made to seek consent to convey an easement in perpetuity over Part 8 in favour of Bell Canada to protect existing buried facilities and supply services and a partial discharge of mortgage of 26 square metres of land. 801 square metres of land (Part 1 and 8) is to be retained for one single residential dwelling, is hereby: GRANTED

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.**

The above decision is subject to the following conditions:

Secretary-Treasurer

- 1. 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.**

2. That application for consent, file B5/2019 receive final certification of the Secretary-Treasurer concurrently with applications B3/2019P and B4/2019P; and
3. That the final certification fee of \$387, 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.

Carried

7. Stella Street Applications for Minor Variance

7.1 A10/2019P - 36 Stella Street

Purpose of Application

Application for relief, pursuant to Section 13.2 (b) "Minimum Lot Frontage" – to permit a minimum lot frontage of 17.5m whereas 19m and Section 13.2 (c) "Maximum Lot Coverage" – to permit a maximum lot coverage of 40% whereas 30% is permitted is required.

Representation

The Applicant and Applicant's Agent was present.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Public Works
3. Town of Pelham Building Department
4. Michael Whittaker Correspondence
5. Marion Whittaker Correspondence

Applicant's Comments

The Applicant's Agent had no comments.

Public Comments

There were no comments received from the public.

Members Comments

There were no comments made by the Committee Members.

Moved By John Klassen

Seconded By Bernie Law

Application is made for relief of Section 13.2 (b) “Minimum Lot Frontage” – to permit a minimum lot frontage of 17.5m whereas 19m and Section 13.2 (c) “Maximum Lot Coverage” – to permit a maximum lot coverage of 40% whereas 30% is permitted is required, is hereby: GRANTED.

The above decision is based on the following reasons:

- 1. The variance is minor in nature given the surrounding area and that smaller lot sizes are increasingly becoming common throughout the Town, Region and Province.**
- 2. The general purpose and intent of the Zoning By-Law is maintained.**
- 3. The intent of the Official Plan is maintained.**
- 4. The proposal is desirable for the use of the land as the narrower frontage will help to frame the edge of Pelham Street in a more compact fashion by lessening the large underutilized side yards between buildings and affords modest flexibility for additional building alterations or future structures on the site.**
- 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 the approval of the minor variance is subject to Consent Files B3/2019P - B5/2019P obtaining final approval.**

Carried

7.2 A11/2019P - 36 Stella Street

Purpose of Application

Application for relief, pursuant to Section 13.2 (a) “Minimum Lot Area” – to permit a minimum lot area of 625 metres squared whereas 700 metres squared is permitted.

Representation

The Applicant and Applicant’s Agent was present.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Public Works
3. Town of Pelham Building Department
4. Michael Whittaker Correspondence
5. Marion Whittaker Correspondence

Applicant's Comments

The Applicant's Agent had no comments.

Public Comments

There were no comments received from the public.

Members Comments

There were no comments made by the Committee Members.

Moved By Bernie Law

Seconded By John Klassen

Application is made for relief of Section 13.2 (a) “Minimum Lot Area” – to permit a minimum lot area of 625 metres squared whereas 700 metres squared is permitted, is hereby: GRANTED.

The above decision is based on the following reasons:

- 1. The variance is minor in nature given smaller lot sizes are increasingly becoming common throughout the Town, Region and Province.**

2. The general purpose and intent of the Zoning By-Law is maintained.
3. The intent of the Official Plan is maintained.
4. The proposal is desirable for the use of the land as it will allow for an additional dwelling unit to be erected on an otherwise fairly large residential lot.
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 the approval of the minor variance is subject to Consent Files B3/2019P - B5/2019P obtaining final approval.

Carried

7.3 A12/2019P - 36 Stella Street

Purpose of Application

Application for relief, pursuant to Section 13.2 (a) "Minimum Lot Area" – to permit a minimum lot area of 650 metres squared whereas 700 metres squared is permitted.

Representation

The Applicant and Applicant's Agent was present.

Correspondence Received

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

4. Michael Whittaker Correspondence
5. Marion Whittaker Correspondence

Applicant's Comments

The Applicant's Agent had no comments.

Public Comments

There were no comments received from the public.

Members Comments

There were no comments made by the Committee Members.

Moved By Bernie Law

Seconded By John Klassen

Application is made for relief of Section 13.2 (a) "Minimum Lot Area" – to permit a minimum lot area of 650 metres squared whereas 700 metres squared is permitted, is hereby: GRANTED.

The above decision is based on the following reasons:

- 1. The variance is minor in nature given smaller lot sizes are increasingly becoming common throughout the Town, Region and Province.**
- 2. The general purpose and intent of the Zoning By-Law is maintained.**
- 3. The intent of the Official Plan is maintained.**
- 4. The proposal is desirable for the use of the land as it will allow for an additional dwelling unit to be erected on an otherwise fairly large residential lot.**
- 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 the approval of the minor variance is subject to Consent Files B3/2019P - B5/2019P obtaining final approval.**

Carried

8. Minutes for Approval

Moved By Bernie Law

Seconded By Donald Cook

That the minutes of the April 2, 2019, Committee of Adjustment Hearing be approved.

Carried

9. Adjournment

Moved By John Klassen

Seconded By Bernie Law

BE IT RESOLVED THAT this Meeting of the Committee of Adjustment Hearing be adjourned until the next regular meeting scheduled for July 9th, 2019 at 4:00 pm.

Carried

Don Cook, Chair

Secretary-Treasurer, Nancy J. Bozzato