

Committee of Adjustment AGENDA

CofA 05/2023

May 1, 2023

4:00 pm

Meridian Community Centre - Accursi A and B

100 Meridian Way

Fonthill, ON

L0S 1E6

The Town of Pelham is holding hybrid meetings of Council and Committee in accordance with Procedure By-law 4507(2022). Public access to meetings will be provided in-person at the location indicated on the agenda, via Livestream: www.youtube.com/townofpelham/live and subsequent publication to the Town's website at www.pelham.ca.

Pages

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

We begin this meeting by acknowledging the land on which we gather is the traditional territory of the Haudenosaunee and Anishinaabe peoples, many of whom continue to live and work here today. This territory is covered by the Upper Canada Treaties and is within the land protected by the Dish With One Spoon Wampum agreement. Today this gathering place is home to many First Nations, Metis, and Inuit peoples and acknowledging reminds us that our great standard of living is directly related to the resources and friendship of Indigenous people.
4. **Approval of Agenda**
5. **Disclosure of Pecuniary Interest and General Nature Thereof**
6. **Requests for Withdrawal or Adjournment**

7. Applications for Minor Variance

7.1 A6/2023P - 26 Chestnut Street - Part 1

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1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Curtis Thompson, Better Neighborhoods (Applicable to B5/2023P, A6/2023P & A7/2023P)
5. David and Mary Jo Drago
6. Gary Birch
7. Blue Mackay
8. Cheryl Lapalme
9. Robert and Victoria McCauley

Pre-Registered Members of the Public

1. David and Mary Jo Drago
2. Chuck Miller
3. Patti Tomczyk

7.2 A7/2023P - 26 Chestnut Street - Part 2

50

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Curtis Thompson, Better Neighborhoods (Applicable to B5/2023P, A6/2023P & A7/2023P)
5. David and Mary Jo Drago
6. Gary Birch
7. Blue Mackay
8. Cheryl Lapalme
9. Robert and Victoria McCauley

Pre-Registered Members of the Public

1. David and Mary Jo Drago
2. Chuck Miller
3. Patti Tomczyk

7.3 A10/2023P - 2671 Maple Avenue

96

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Niagara Region
5. NPCA

8. Applications for Consent

8.1 B6/2023P - 1553 Pelham Street

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

To be considered prior to Minor Variance Files A6/2023P and A7/2023P.

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Curtis Thompson, Better Neighborhoods (Applicable to B5/2023P, A6/2023P & A7/2023P)
5. Hydro One
6. David and Mary Jo Drago
7. Cheryl Lapalme
8. Robert and Victoria McCauley

Pre-Registered Members of the Public

1. David and Mary Jo Drago
2. Chuck Miller
3. Patti Tomczyk

9. Adjournment



**Community Planning and Development Department
Committee of Adjustment**

Monday, May 01, 2023

Minor Variance Application: A6-2023P

Municipal Address: 26 Chestnut Street (Part 1 on Sketch)

Legal Description: Lot 17 on Plan 716

Roll number: 2732 020 003 04900

Nature and Extent of Relief/ Permission Applied for:

The subject land is located on the south side of Hurricane Road, lying west of Chestnut Street, being Lot 17 on Plan 716 in the Town of Pelham, known locally as 26 Chestnut Street (Part 1 on Sketch) in the Town of Pelham.

The subject land is zoned Residential 2 (R2) in accordance with Pelham Zoning By-law 4481(2022), as amended. Note that this application is being heard in conjunction with Consent File B5/2023P. The lands to be severed (Part 1) are proposed to be developed with a single detached dwelling and detached accessory building. Application is made for relief to rectify zoning deficiencies as a result of consent application B5/2023P, preserve the orientation of the existing detached accessory building and improve development efficiency. The application requests relief from the following sections:

- a) **Section 3.1(e) "Lot Coverage (Accessory Uses)"** – to permit a maximum lot coverage of 20% of the lot area for all accessory buildings whereas the by-law allows a maximum lot coverage of 10% of the lot area for all accessory buildings; and
- b) **Section 6.2.2 "Minimum Lot Area"** – to permit a minimum lot area of 350m² whereas the by-law requires a minimum lot area of 360m²

The requested variances are intended to provide flexibility in the event the final survey confirms either provision to be marginally smaller than what is shown on the sketch.

Applicable Planning Policies:

Planning Act, R.S.O. 1990, c.P.13

Section 45 (1) states that the Committee of Adjustment may authorize minor variance provisions of the Zoning By-law, in respect of the land, as in its opinion is (1) minor in nature, (2) objectively desirable for the appropriate development or use of the land, and the general intent and purpose of the (3) Zoning By-law and (4) Official Plan are maintained (the “Four Tests”). A discussion of the four tests is included below.

Provincial Policy Statement (2020)

The Provincial Policy Statement (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 suitable development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment.

Section 3 of the Planning Act requires that decisions affecting planning matters “shall be consistent with” policy statements issued under the Act. The PPS recognizes the diversity of Ontario and that local context is important. Policies are outcome-oriented, and some policies provide flexibility provided that provincial interests are upheld. PPS policies represent minimum standards.

The subject land is in a ‘Settlement Area’ according to the PPS. Policy 1.1.3.1 states that settlement areas shall be the focus of growth and development.

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.

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.

Infill development is an acceptable form of *intensification* so long as new development is compatible in nature, is compact, and avoids adverse impacts to provincial interest, public health, safety, and the quality of the human environment.

Planning staff are of the opinion the requested zoning relief is consistent with the PPS and promotes appropriate development standards that help facilitate compact form and *intensification*.

Greenbelt Plan (2017)

The lands are located outside of the Greenbelt Plan and thus the policies of the Greenbelt Plan do not apply.

Growth Plan for the Greater Golden Horseshoe (2020)

The Growth Plan informs decision-making regarding growth management and environmental protection in the Greater Golden Horseshoe (GGH). All decisions made after May 16, 2019, that affect a planning matter will conform to this Growth Plan, subject to any legislative or regulatory provisions providing otherwise. The policies of this Plan take precedence over the PPS to the extent of any conflict.

The subject lands are located within the Delineated Built Boundary. Section 2.2.1 of the Growth Plan directs growth to settlement areas that have a delineated built boundary, have existing municipal services, and can support the achievement of complete communities. The Growth Plan states municipalities will support the achievement of complete communities by planning to accommodate forecasted growth, planning to achievement the minimum intensification and density targets of the Plan, considering the range and mix of housing options and densities of existing housing stock, and planning diversify overall housing stock.

Planning staff are of the opinion the proposed minor variances conform with the Growth Plan.

Town of Pelham Official Plan (2014)

The Town of Pelham Official Plan is the primary planning document that will direct the actions of the Town and shape growth that will support and emphasize Pelham's unique character, diversity, cultural heritage and protect natural heritage features.

The local Official Plan designates the subject land as 'Urban Living Area / Built Boundary.' Section B1.1.2 outlines the permitted uses and intentions of this designation, which are supportive of the development of lower density residential uses as part of a complete community.

Policy A2.2.2 Growth & Settlement – states that it is a goal of this Plan to encourage intensification and redevelopment within the *Urban Area* specifically in proximity to the Downtown. The proposal is seen as an appropriate form of intensification in the Urban Area.

Policy A2.3.2 Urban Character – stated objectives of this Plan include:

- To respect the character of existing development and ensure that all applications for development are physically compatible with the character of the surrounding neighbourhood.
- To encourage the intensification and use of the lands within the downtown core of Fonthill and to make every effort to improve the economic health of the core by encouraging redevelopment and the broadest mix of compatible uses.
- To encourage the development of neighbourhoods which are compact, pedestrian friendly and provide a mix of housing types, community facilities, small-scale commercial centres and public open spaces.

The character of this neighbourhood is an eclectic mix of housing and density including single detached and townhouse units reflecting a variety of housing styles from traditional to modern and constructed over a variety of era's of development. For example, the existing house on Part 2 was constructed in 1911 and the garage in 1986, the townhouses at 1599 Pelham Street across the road from the subject lands were constructed in the late 1970's and recently new single detached dwellings on the north side of Hurricane Road were constructed this year. The dwellings on adjacent properties were also constructed between 1910-1912. The neighbourhood is considered to be a stable established neighbourhood that has been experiencing some recent intensification with the approval of four new residential lots at 3 Hurricane Road, however it is reflective of a neighbourhood that has experienced change at different times and has evolved over time such that changes have been successfully absorbed into the fabric of the neighbourhood. The proposed variance would provide for residential development that reflects of the density and contributes to the eclectic character of the area.

Section B1.1 of the Official Plan provides the policy base of the Urban Living Area designation. 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. The proposal is supported by the Town Official Plan policies that encourage infill within existing built-up areas. It is noted compatibility does not necessarily mean the same as, rather the ability to coexist together.

Policy E1.5 states that in addition to the *Planning Act's four tests* considered in determining whether to grant a minor variance, applicants should be prepared to demonstrate a need for the requested relief on the basis that the subject zoning provision is not warranted in a particular circumstance, causes undue hardship, or is otherwise impossible to comply with. The applicant provided a planning justification brief providing an analysis of the requested variances.

Although the *Planning Act*, and Provincial planning case law does not recognize the demonstration of 'need' or 'hardship' as a *fifth test* of a minor variance, the local Official Plan raises this matter. Please refer to discussion in Four Tests section below.

Town Planning staff are of the opinion the proposed minor variances conform to the local Official Plan as they assist in enabling appropriate redevelopment and *intensification* within an existing residential neighbourhood and do not conflict with any policies subject to demonstration of appropriate urban design and fulfillment of the proposed conditions of approval.

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

The subject lands are zoned Residential 2 (R2) in accordance with Pelham Zoning By-law 1136 (1987), as amended. The variance application seeks relief from the following provisions of the Zoning By-law:

- a) **Section 3.1(e) "Lot Coverage (Accessory Uses)"** – to permit a maximum lot coverage of 20% of the lot area for all accessory buildings whereas the by-law allows a maximum lot coverage of 10% of the lot area for all accessory buildings; and
- b) **Section 6.2.2 "Minimum Lot Area"** – to permit a minimum lot area of 350m² whereas the by-law requires a minimum lot area of 360m².

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

Minor Variance Test	Test Response Explanation
The variance is minor in nature.	<u>3.1(e) Lot Coverage (Accessory Uses)</u> Yes, the variance is minor in nature. The increased lot coverage is minimal given the lot and surrounding context. Given the surrounding urban context, the increased lot coverage is considered minor in nature. It is noted the accessory building is located on the same footprint as the

	<p>existing accessory building. The variance is required as a result of the proposed consent. No expansion to the footprint of the accessory building is proposed and there have been no complaints with regards to the accessory building in the past. As such, it is the opinion of staff the variance is minor in nature.</p> <p><u>6.2.2 Minimum Lot Area</u></p> <p>Yes, the variance is minor in nature. The variance requests a minimum lot area of 350 m², whereas 360 m² is required – a reduction of approximately 2.8%. The proposed reduced lot area is an adequate size for a single detached dwelling and accessory structure.</p> <p>The variance is considered minor as it is not so significant that a dwelling cannot be comfortably sited on the proposed lot and the reduction of 10m² (107 ft²) does not result in an adverse impact on the functionality of the site. As such, it is the opinion of staff that the proposed minor the variance is minor in nature.</p>
<p>The variance is desirable for the development of the use of the land.</p>	<p><u>3.1(e) Lot Coverage (Accessory Uses)</u></p> <p>Yes, the requested variance is desirable for the development or use of the land. The increase in lot coverage for the accessory building is desirable as it will permit design flexibility for the site and allow for the footprint of the existing accessory building to be maintained. The requested variance is appropriate and desirable as it will not result in shadowing on adjacent properties, will allow for the continued use of the rear yard as private amenity space, will not alter the function of the subject property.</p> <p><u>6.2.2 Minimum Lot Area</u></p> <p>Yes, the requested variance is desirable for the development or use of the land. The requested variance will facilitate a consent that is aligned with the objectives of the Town's Official Plan. The reduction in lot area is not anticipated to have substantial impacts on the surrounding area and is generally compatible with lot areas in the surrounding area.</p>

	As such, the variance is considered desirable for the development or use of the land.
The variance maintains the general intent and purpose of the Zoning By-law.	<p><u>3.1(e) Lot Coverage (Accessory Uses)</u></p> <p>Yes, the variance maintains the general intent and purpose of the Zoning By-law. The intent of the maximum lot coverage provision of the By-law is to maintain adequate space for landscaping, leisure, drainage, and to maintain neighbourhood streetscapes and compatibility. The requested variance would not negatively impact the character of the area. The variances would allow established conditions to continue and facilitate compatible residential development.</p> <p><u>6.2.2 Minimum Lot Area</u></p> <p>Yes, the variance maintains the general intent and purpose of the Zoning By-law. The intent of the minimum lot area provision is to ensure lot areas are appropriate to accommodate site functionality and to ensure the proposed dwelling has sufficient area for siting the building siting and providing suitable setbacks.</p> <p>The variance requests a slight reduction of 10m² (107 ft²). The variance maintains the intent of the By-law as the lot will continue to allow for a single detached residential dwelling on a Residentially zoned lot.</p>
The variance maintains the general intent and purpose of the Official Plan.	<p><u>3.1(e) Lot Coverage (Accessory Uses)</u></p> <p>Yes, the variance maintains the general intent and purpose of the Official Plan. Staff are of the opinion that the requested variance is not considered to have significant impacts within the context of the Official Plan. The subject land's use is within the permitted use of the Urban Living Area / Built Boundary designation and will not impact the application's ability to meet the intent and purpose of the Official Plan as it relates to the provision of one additional dwelling unit in the Urban Living Area/Built Boundary. As such, staff are of the opinion the proposed variance maintains the general intent and purpose of the Official Plan.</p>

6.2.2 Minimum Lot Area

The surrounding neighbourhood is generally characterized by one to two storey single detached dwellings. The Official Plan states that development and redevelopment shall maintain and enhance the character and stability of existing and well-established residential neighbourhoods with regards to scale and density.

Staff are of the opinion that the requested variance is not considered to have significant impacts within the context of the Official Plan policies. The proposed detached accessory building and dwelling are generally compatible with and generally in keeping with the low-density residential character of the neighbourhood.

The proposal is generally consistent with the existing built form, scale, and massing with existing development and the character of the area.

Staff is of the opinion that the variance maintains the general intent and purpose of the Official Plan.

Agency and Public Comments:

On April 5, 2023, a revised 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.

This revised notice recognizes the April 3, 2023, decision of the Ontario Land Tribunal which ordered that the new Town of Pelham Comprehensive Zoning By-law 4481 (2022) is now in full force and effect save and except as it applies to site specific lands identified on Appendix 1 of the decision, and is deemed to have come into force on the day the ZBL was passed, namely August 30, 2022.

To date, the following comments have been received:

- Building Division
 - Demolition permit is required for existing Garage.
 - A building permit will be required for the proposed House and Accessory Building.

- Public Works Department
 - Town is not supportive of the following sections: Section 6.1(b) Location (Accessory Uses), Section 6.1(d) Lot Coverage (Accessory Uses) and Section 14.2(e) Minimum Interior Side Yard.
 - There are utilities in front of the proposed driveway (Guywire, Catch Basin, Traffic sign and Hydro pole)
 - The water service for the new lot will be from the existing watermain at the intersection of Chestnut and Hurricane, the service should be a minimum 2" with tracer wire and can be installed in the road allowance behind the curb.
- Hydro One
 - No comments or concerns.

Five (5) public comments were received at the time of writing this report. The comments are included in full on the public agenda and summarized below.

David and Mary Jo Drago

- *Opposes the consent and variances; Concerns relating to negative impacts of reduced lot area, setbacks, coverage; Concerned with negative impacts on the character of the neighbourhood; Concerns with lack of green space and impacts for stormwater runoff/drainage; Concerns related to a lack of amenity area and loss of mature trees and no egress to an open yard; Suggested second dwelling unit would be more appropriate for the site; Concerns with compatibility related to an overbuild of the site; Concerns with the scale of the proposed dwelling; Concerns with privacy and overlook on neighbouring properties; Concerns the number of variances does not respect the intent of the Zoning By-law; Concerns related to scale and density; Concerns related to the intensification of the surrounding area; Concerns the proposed variances associated with the consent application do not meet the four tests of the Planning Act; Concerns the retained lot will not maintain a carport or private garage; Concerns with snow storage and potential impacts on neighbouring properties and integrity of existing cedars and fence; Concerns with light and noise impacts; Concerns with the size, scale, and density of the proposal; Concerns related to impacts on the heritage/character of the surrounding neighbourhood; Concerns with precedence setting;*

Blue Mackay

- *Opposes the consent and variances; Concerns with respect to the character and compatibility of the proposal with the surrounding*

neighbourhood; Concerns the proposed variances associated with the consent are not minor in nature;

Cheryl Lapalme

- Opposes the consent and variances; Concerns with the removal of trees; Concerns with traffic impacts on Hurricane Road; concerns the number of variances requested is not minor; concerns respecting the character and stability of the existing neighbourhood; Concerns related to parking on public road; Concerns with drainage along Hurricane Road;*

Robert & Victoria McCauley

- Opposes the consent and variances; Concerns lot area is not large enough to support dwelling; Concerns with fire and storm drainage; Concerns with parking and traffic impacts on local streets;*

Gary Birch

- Opposes the consent and variances; Concerns related to reduction of green space and loss of private trees; concerns related to drainage along Hurricane Road; Concerns with impacts of construction; Concerns with potential removal of hydro pole; Concerns with precedence setting;*

Planning Staff Comments:

Planning staff have reviewed the *Planning Justification Brief* submitted by Better Neighbourhoods Development Consultants dated February 27, 2023, as well as reviewed all agency and public correspondence submitted to date and offer the following for the Committee's consideration:

When considering any Planning Act application, a planner must always consider the "public interest" and ensure that their professional recommendations take this concept into account. In very general terms the public interest reflects policy and the common well-being of a population but often is confused with public opinion or personal interests of the public. Public opinion is what various stakeholders think and say about an issue at a point in time; public interest is an attempt to identify and address the underlying concerns today and into the future, and to balance them against one another, to reach a recommendation. For any project, there is often more than one public interest, and it is the responsibility of the planner to identify and balance these multiple interests to meet the identified needs reflected in public policy.

Planning staff also note that with respect to hardship, that it is not desirable to shift the proposed lot further allowing for an increase in lot area to comply with the zoning by-law provisions as that would have a greater impact on

the dwelling on the retained lot, than the impact of a slightly smaller lot area for the proposed lot. Also, reducing the area of the accessory building to comply with lot coverage requirement will result in fewer design flexibility and functionality of the accessory building which is not desirable.

Planning staff note that Public Works have expressed concerns with the proposal and in order to satisfy Public Works concerns appropriate approvals are required including a comprehensive grading and drainage plan demonstrating that storm water runoff will not negatively impact upon neighbouring properties. Planning Staff also note that if any street trees are removed to accommodate the proposed new driveway entrance that the applicant is responsible for street tree replacement in accordance with the Town Tree Policy.

This minor variance application is being made to facilitate the development of a new single detached dwelling that would result from the approval of consent application B5/2023P.

Based on the analysis conducted, staff is of the opinion the proposal:

- makes efficient use of the land;
- will not result in overbuilding of the property;
- will not alter the view, sightlines or personal enjoyment of the subject property or any neighbouring properties; and,
- should not negatively impact the surrounding neighbourhood with regards to land use incompatibility, traffic, privacy and storm water runoff.

The requested variances are minor in nature, conform to the general policies and intent of both the Official Plan and Zoning By-law and are appropriate for the development and use of the land.

Planning Staff Recommendation:

Planning staff recommend that minor variance file A6/2023P **be approved** subject to the following condition(s):

THAT the applicant:

- That all necessary building and demolition permits be acquired prior to construction commencing, to the satisfaction of the Chief Building Official.
- The applicant obtains a Driveway Entrance and Culvert Permit from the Public Works department for the construction of all new or modification

of existing driveways or entrances. Installation and/or modification of all entrances shall be completed in accordance with Town Standards

- Each lot is to be individually serviced a water and sanitary sewer lateral in accordance with Town of Pelham Engineering Standards. Installation of any missing services will require a Temporary Works Permit obtained through the Public Works Department. These works are to be completed prior to consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete.
- Town staff will require a comprehensive lot grading and drainage plan demonstrating that storm water runoff will not negatively impact nor rely upon neighboring properties, to the satisfaction of the Director of Public Works or his designate.
- That any street trees removed be replaced by the applicant in accordance with the Town Tree Policy and to the satisfaction of the Director of Public Works.
- Prepare and submit a Site Servicing Plan to the satisfaction of the Director of Public Works or his designate.
- That the approval of the minor variance A6/2023P is subject to the final certification of Consent File and B5/2023P.

Prepared and Submitted by:

Lindsay Richardson
Policy Planner

Recommended by:

Barbara Wiens, MCIP, RPP
Director of Community Planning and Development Department

Memo

To: Sarah Leach, Deputy Clerk

CC: Jason Marr, Director of Public Works; Barb Wiens, Director of Planning and Development; Derek Young, Manager of Engineering; Nicholas Palomba, Engineering Technologist; Lucas Smith, Engineering Technologist

From: Gimuel Ledesma, Engineering Technologist

Date: April 21, 2023

File No: A6/2023P

RE: Minor Variance – 26 Chestnut Street (Part 1)

The Public Works Department has reviewed the submitted documentation regarding the proposed minor variance of 26 Chestnut Street. The subject land is zoned Residential 2 (“R2”) in accordance with Pelham Zoning By-law 4481(2022), as amended. Application is made for relief to rectify zoning deficiencies as a result of consent application B5/2023P, preserve the orientation of the existing detached garage and improve development efficiency, from:

Section 3.1(e) “Lot Coverage (Accessory Uses)” – to permit a maximum lot coverage of 20% of the lot area for all accessory buildings whereas the by-law allows a maximum lot coverage of 10% of the lot area for all accessory buildings; and

Section 6.2.2 “Minimum Lot Area” – to permit a minimum lot area of 350sm whereas the by-law requires a minimum lot area of 360sm; and

This application is being considered concurrently with Consent File B5/2023P and Minor Variance File A7/2023P.

Public Works offer the following comments:

- Town is not supportive of the following sections: **Section 3.1(e) Lot Coverage (Accessory Uses)**
- There are utilities in front of the proposed driveway (Guywire, CatchBasin, Traffic sign and Hydro pole)
- The water service for the new lot will be from the existing watermain at the intersection of Chestnut and Hurricane, the service should be a minimum 2" with tracer wire, and can be installed in the road allowance behind the curb
- Please be advised that no sideyard walkways that impede sideyard swale shall be permitted

Public Works offer the following conditions:

- The applicant obtains a Driveway Entrance and Culvert Permit from the Public Works department for the construction of all new or modification of existing driveways or entrances. Installation and/or modification of all entrances shall be completed in accordance with Town Standards
- New lot should be serviced with a 25mm water and 125mm sanitary sewer lateral in accordance with Town of Pelham Engineering Standards. Installation of any services will require a Temporary Works Permit obtained through the Public Works Department. These works are to be completed prior to consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete.
- Town staff will require a comprehensive lot grading and drainage plan demonstrating that storm water runoff will not negatively impact nor rely upon neighboring properties, to the satisfaction of the Director of Public Works or his designate. The lot grading plan shall illustrate that sideyard swales shall not impact adjacent properties and be constructed completely within the severed lot. No structures, sidewalks or anything that may impact or impede the sideyard swales is to be permitted.
- That the Applicant confirm no existing utilities cross the proposed new property line. Should any services cross this new property line nor rely on adjacent properties.

To: Sarah Leach

Cc: Lindsay Richardson

From: Alex Foisey, Building Intake/Zoning Technician

Date: April 19th, 2023

Subject: Building Comments on Applications to the Committee of Adjustment for
26 Chestnut, Pelham

File Number: A6/2023P

Comment:

- A building permit will be required for the proposed House and Garage

Respectfully,
Alex Foisey

MAY 1ST, 2023

26 Chestnut Street, Fonthill Severance & Minor Variance



Site Context

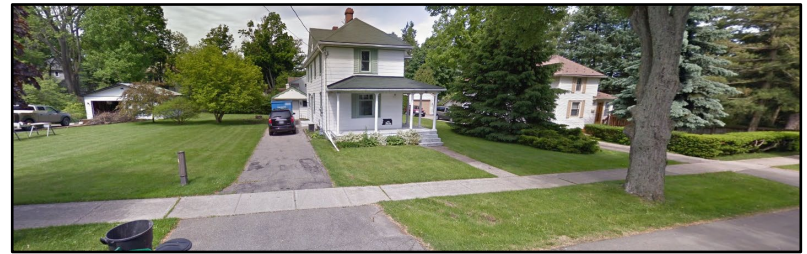
- North → Townhouses and Single Detached Residential



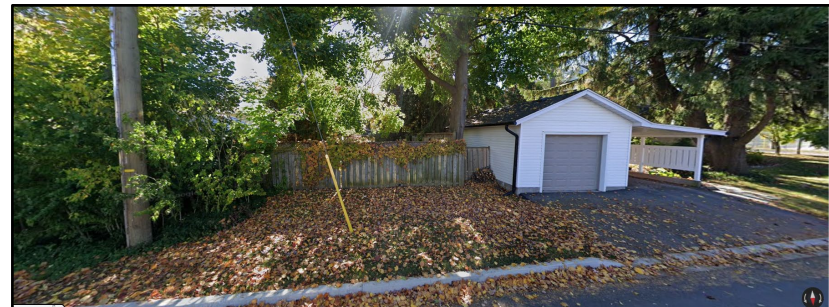
- East → Single Detached Residential



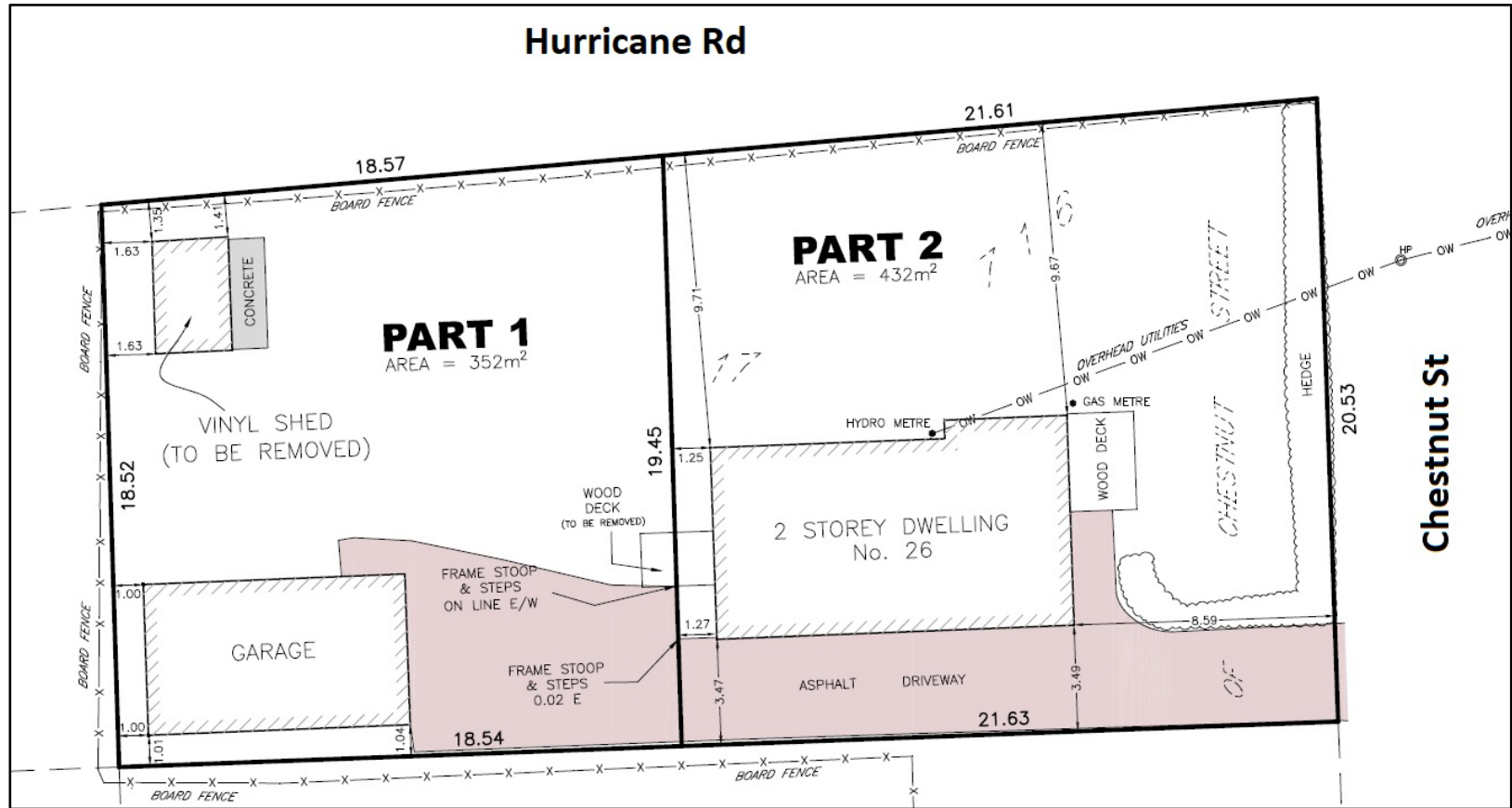
- South → Single Detached Residential



- West → Single Detached & Duplex Residential

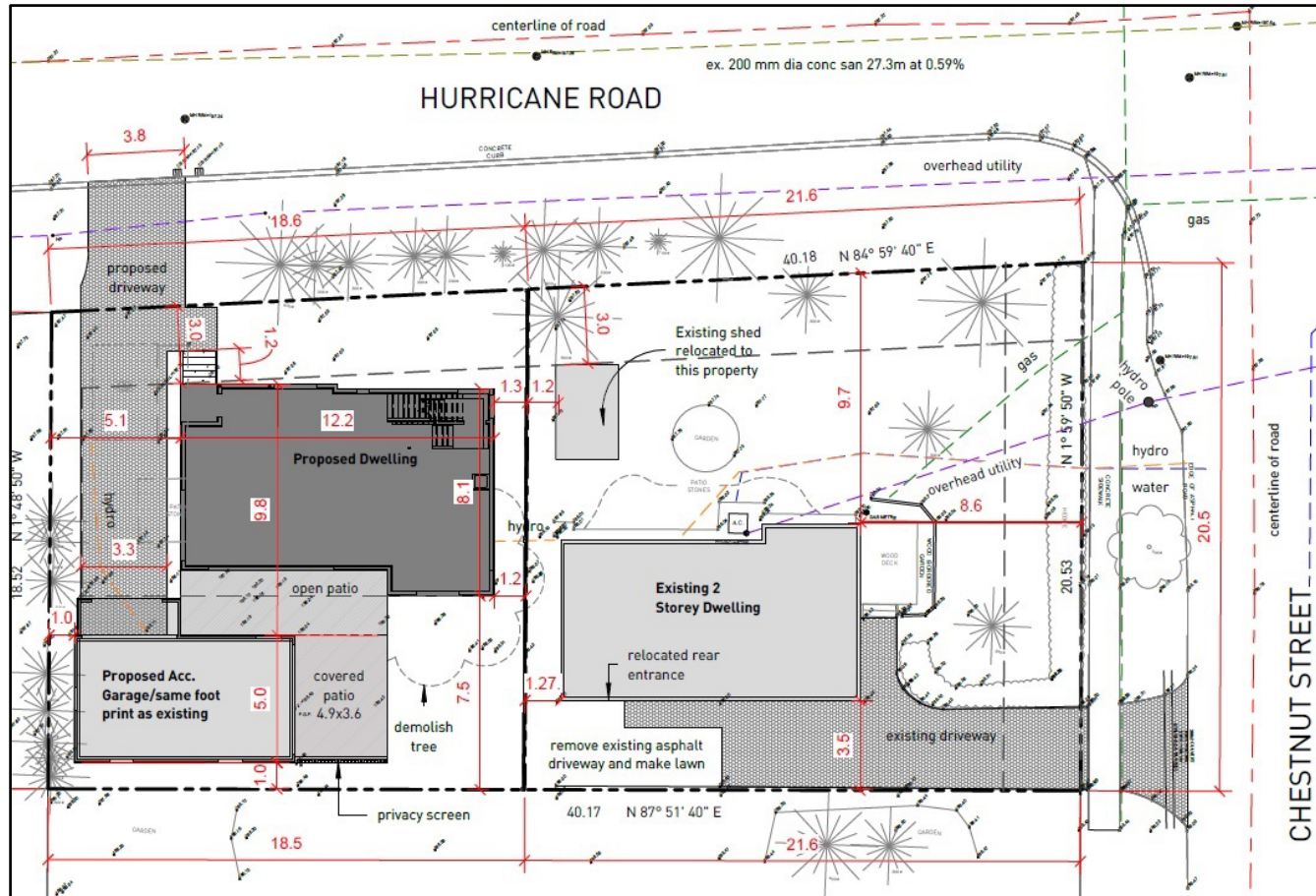


Proposed Severance



- Sever existing 784 m² corner lot & create one new lot fronting Hurricane Rd on a 352 m² lot (Part 1)
- Preserve existing detached dwelling & shed.
- Shed to be relocated onto retained lot (Part 2).
- Maintain existing detached garage footprint with potential small expansion.

Proposed Site Plan



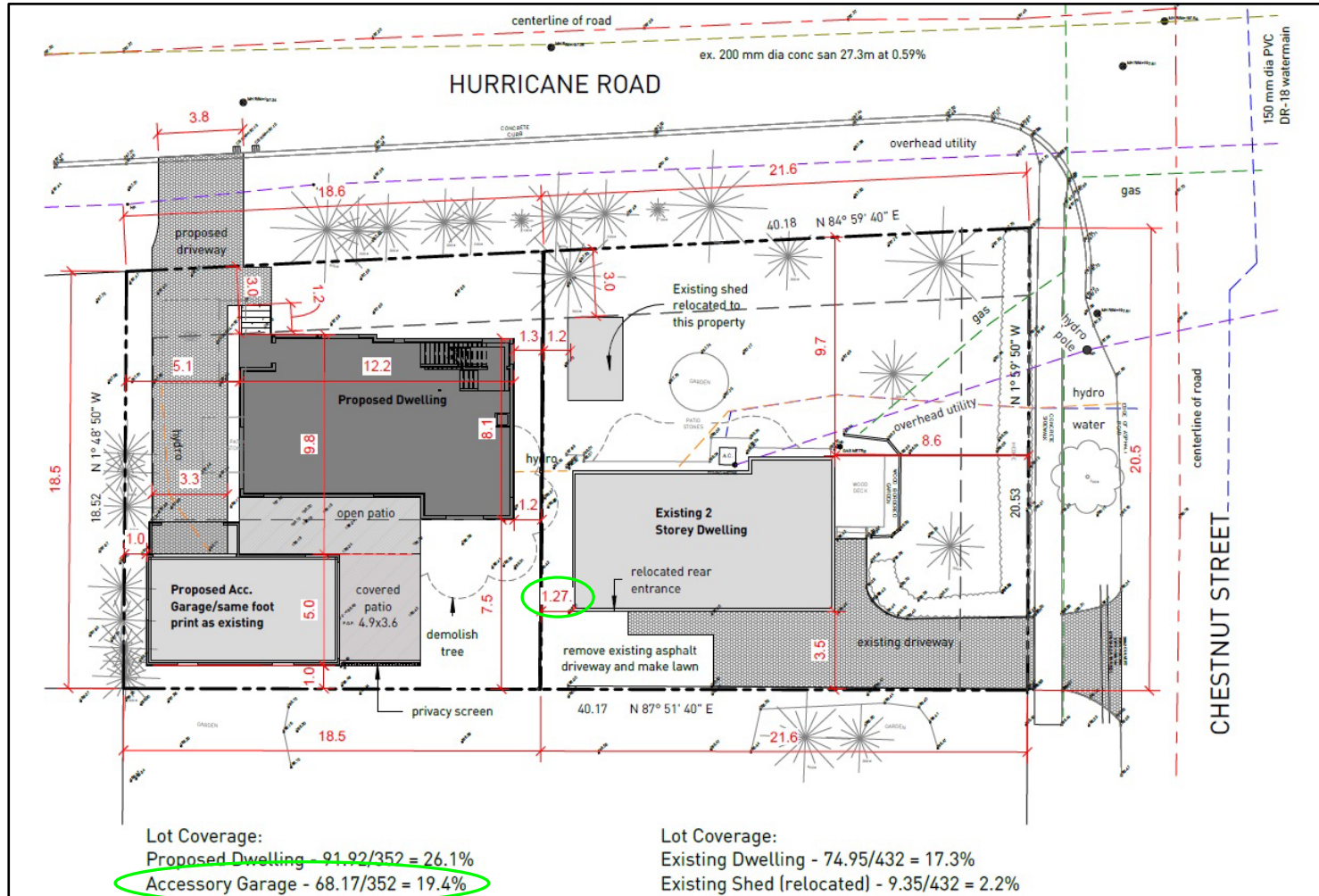
Severed Lot:

- New single detached dwelling fronting Hurricane Rd
- Remove existing driveway that formerly served garage
- No tree or fence removal along western lot line
- Large trees on Town boulevard will not be impacted by new driveway

Retained Lot:

- Remove portion of driveway and restore with landscaping
- Rear yard reduction is technical in nature given house orientation & lot geometry

Proposed Minor Variances



Severed Lot:

- Min Lot Area: $360 \text{ m}^2 \rightarrow 352 \text{ m}^2$
- Max Lot Coverage (Accessory Building): $10\% \rightarrow 20\%$

Retained Lot:

- Min Rear Yard: $7.5 \text{ m} \rightarrow 1.2 \text{ m}$

Urban Design



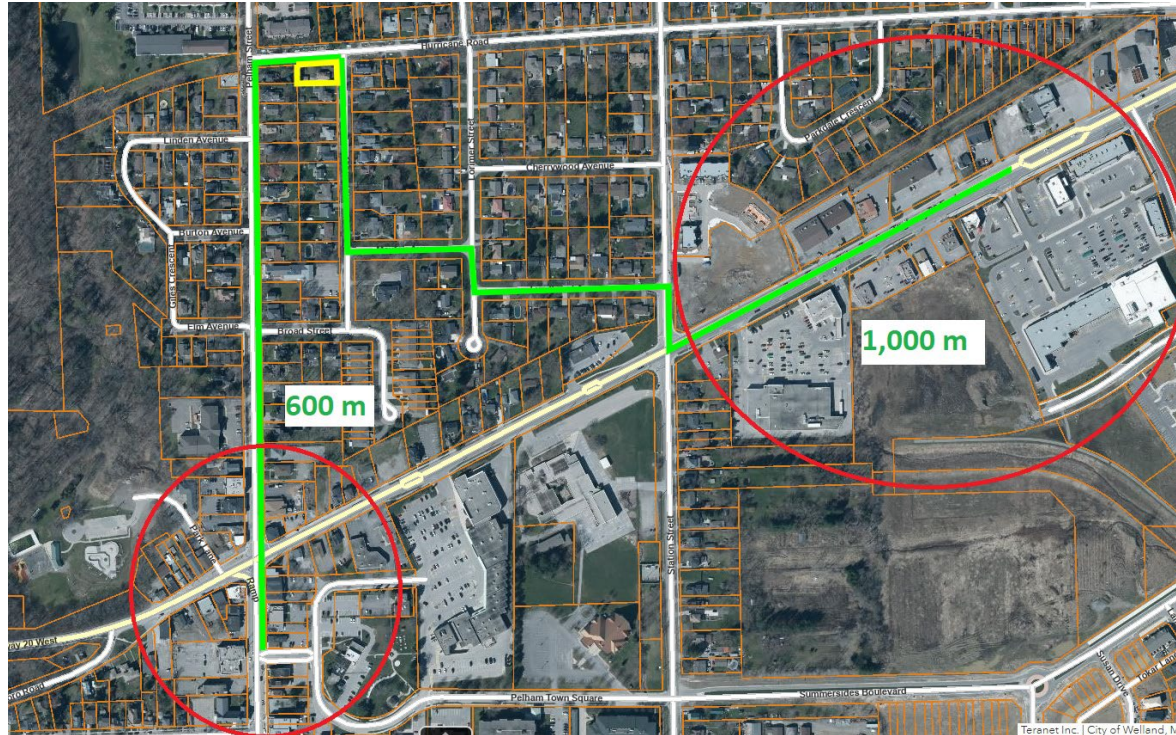
- Pedestrian-oriented design + subordinated rear yard garage.
- Human-scale proportions + prominent front-entrance.
- Vertically dominant + aligned windows at proper elevation help engage the street level.

Proposed Elevation Plans



Town of Pelham Official Plan

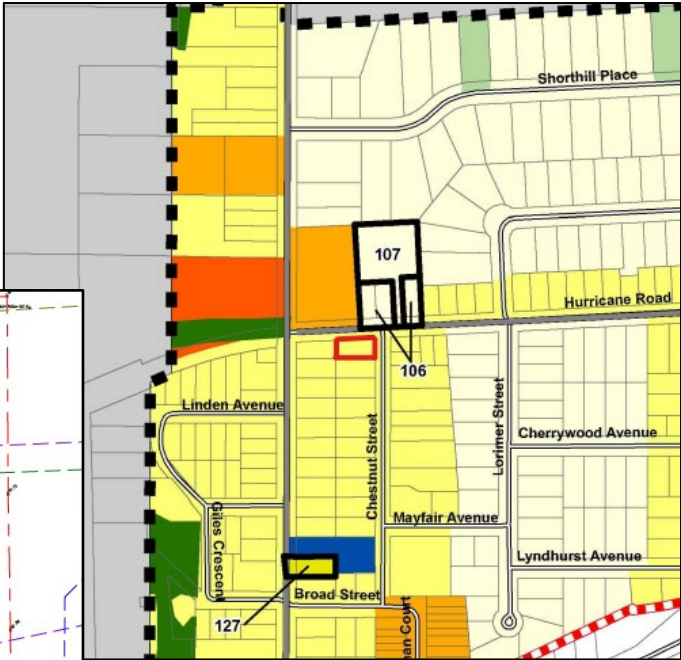
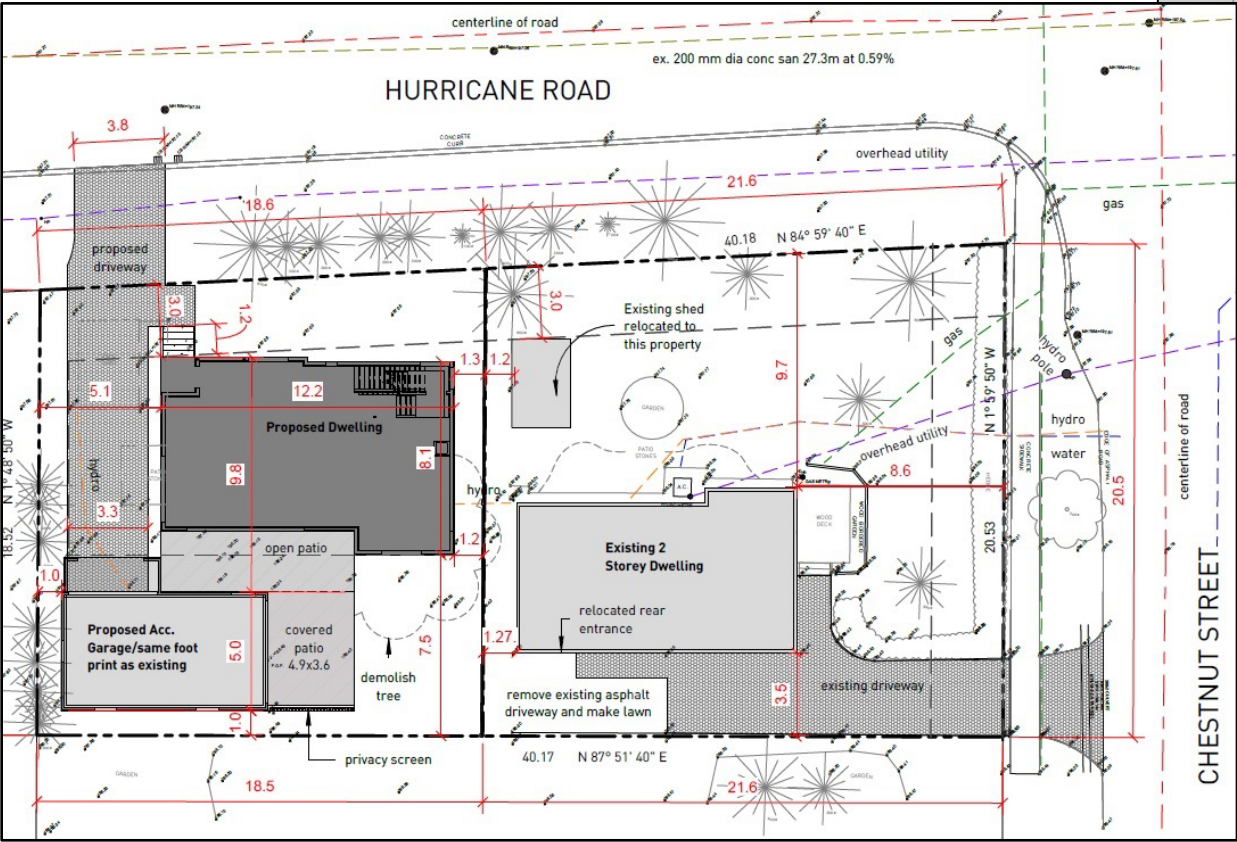
*“To encourage intensification and redevelopment within the Urban Area **specifically in and in proximity to the Downtowns.** (Policy A2.2.2)”*



*“To **encourage** the development of neighbourhoods which are compact, pedestrian-friendly and provide a mix of housing types. (Policy A2.3.2)”*

“To maintain existing infrastructure in a manner that is cost effective. (Policy A2.5.2)”

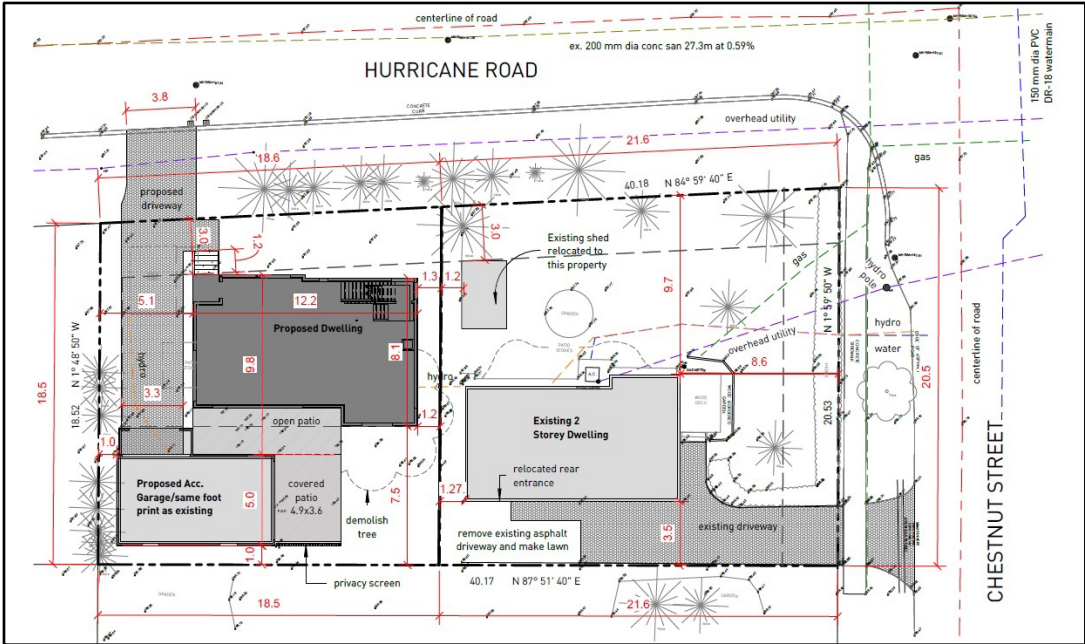
Pelham Zoning By-Law (2022)



Public Comments



Questions



PF

FORE
STIG
EEN

David and Mary Jo Drago
[REDACTED] Pelham St. N
[REDACTED]

Committee of Adjustment
Town of Pelham
20 Pelham Town Square, P.O. Box 400
Fonthill, ON, L0S 1E3

20 March 2023

Dear Secretary Treasurer,

Please accept this letter to register our objections to the application for consent under the file number B5/2023P concerning the subject parcel being Lot 17 on Plan 716 on the subject lands known municipally as 26 Chestnut St. in the Town of Pelham, and to register our objections to the application for minor variances under the file number A6/2023P and A7/2023P.

We are the owners of the dwelling and land municipally known as [REDACTED] Pelham St. N., situated directly west of the subject property, 26 Chestnut St. Our house was constructed in 1910 and has been our residence, our first and only home, since 1990.

This letter will detail our objections in two parts: Part A: Objections to the Application for Consent Under File Number B5/2023P and Part B: Objections to Application for Minor Variances Under File Number A6/2023P and File Number A7/2023P.

Our objections in each part will specifically address the four Statutory Tests as directed in Subsection 45(1) of the Planning Act which must be considered by The Town of Pelham Committee of Adjustment, and satisfied by the applicant, before an application for zoning variance can succeed.

Sincerely yours,

David and Mary Jo Drago

PART A: OPPOSITION TO APPLICATION FOR CONSENT

Is it minor in nature?

It is concluded that the application for consent involves variances of major nature that have a negative impact on the existing dwelling and lot at 26 Chestnut St. based on the following:

- The lot frontage, lot, yard setbacks, and lot coverage zoning requests are major and **diminish** the existing charm of this area. An examination of the neighbourhood plan shows uniform lots and yard spaces. The proposed lot and development clearly have **negative impacts** on the character and uniformity of this historic neighbourhood plan.



- The proposed lot and the existing development at 26 Chestnut St. demand numerous **reductions** and **increased maximums** to be considered viable, and **negatively impact** the integrity of the Town of Pelham by-laws.
- The proposed lot and dwelling demands **reduction** of adequate side yard setbacks and provides only one open grass space to manage stormwater runoff **negatively impacting** neighbouring properties, particularly the rear yard of 1585 Pelham St., situated directly west of the proposed development.

The development **negatively impacts** the owner's absolute, exclusive and undisturbed title to the limits of their lot lines.

- Reductions and reconfigurations to the lot and dwelling known as 26 Chestnut will provide **inadequate** rear yard space of merely 1.2 meters. There will be no egress from the dwelling to the rear yard space or the side yard space on the north side of the property.
- The proposed elimination of back yard space at 26 Chestnut St. requires the demolition of a magnificent shade tree. The interior side yard reductions of the proposed development risk destroying privacy cedars at the rear of 1585 Pelham St.

The *Planning Justification Brief* prepared for the applicant, demonstrates inherent contradictions in its presentation of the proposed lot and the reductions to 26 Chestnut St. The Planning Justification Brief speaks of the owner “*looking to redevelop the **under-utilized** rear yard*”(*Planning Justification Brief*, 4) of 26 Chestnut St. by eliminating its rear yard completely, then boasts of the desirability of such space in the justification for the new development by claiming that “*the reduced front yard setback will help preserve the more **desirable** rear yard.*” (*Planning Justification Brief*, 7)

It must be noted that the dwelling at 26 Chestnut St. is currently a **rental property**. The proposed reconfigurations to the unit and its lot would certainly test the tolerance of an owner-resident. No back yard amenities, no egress to open yard spaces.

It is concluded that the application for consent and the proposal for 2 Hurricane Rd are too large and that the application should be governed by the provisions that apply to Second Dwelling Units in the Town of Pelham based on the following:

- The application for consent seeks to **double** the permitted maximum lot coverage for accessory from the acceptable 10% as provided in the By-law.
- The site plan submitted with the application for consent depicts a development that is too large in size and scale for the proposed lot. The site plan shows that 45.5 percent of the lot will be utilized by structures – a dwelling unit and an accessory garage.
- The over-scale of the dwelling and lot plan are further complicated by the reduction of required lot area by 8 square meters.
- The proposed dwelling unit is to be 90 square meters and a maximum allowable height of 10.5 meters. The proposed building is out of scale for the lot size. The height of the proposed dwelling and its vertically oriented windows intrude upon the privacy of rear yard and amenity spaces at 1585 Pelham St. to the west and the south facing condominium properties to the north.
- The proposed redevelopment of 2 Chestnut St. completely eliminates its rear yard.
- The large-scale reductions at 2 Chestnut St. requires the removal of a mature shade tree which could otherwise be preserved.
- The application for consent seeks to reduce the front yard set back by 50 percent.

Does it maintain the general intent & purpose of the Zoning By-law?

It is concluded that the application for consent the number of variances requested do not maintain the general intent and purpose of the Zoning By-law based on the following:

- The number of variances requested demonstrate that the proposals for 2 Hurricane Rd. and 26 Chestnut St. can only be achieved by rewriting much of the Zoning By-law.
- The proposals for the proposed severance place 26 Chestnut St. in direct contravention of the Zoning By-laws.
- The proposals for side yard set backs intrude upon the property rights of the owners of 1585 Pelham St. Zoning By-laws are created to protect adjacent properties, not to threaten them.

- The scale and density of the proposed dwelling and its accessory unit seriously diminish the charm and historical nature of the existing neighbourhood. Too few open spaces create a dense, concrete landscape.

Does it maintain the general intent and purpose of the Town of Pelham Official Plan?

- The proposed development clearly perverts the Town of Pelham's interpretation of unutilized urban spaces. The writers of the Official Plan were not promoting eliminating rear yards throughout the urban neighbourhoods. The dwelling unit at 26 Chestnut St. is a rental unit. The rear yard is completely utilized by its tenants – featuring a shed, gazebo, propane fire place and sitting area. While the owner of 26 Chestnut St. utilizes a rear yard somewhere else, the tenants of 26 Chestnut St. fully utilize this private space.
- The proposed lot and dwelling unit are not in character with the existing neighbourhood. The elevation sketch does not conform with the visual nature of this area established in the early Twentieth Century.
- The proposed development does not comply with the Town of Pelham Intensification Plan. The *Official Plan Schedule A1* shows the lot to be outside of the intensification corridor.
- The neighbourhood plan shows an underutilized open space two properties directly south of the subject lands. Future development on this more appropriate space will satisfy the intensification needs in this urban area. Development at 26 Chestnut St. is **unnecessary. (see photo)**
- The proposed severance is not necessary to meet intensification goals in this neighbourhood. This immediate area has already experienced its limit of intensification with 4 new lots created at 3 Hurricane Rd., the creation of the Fonthill Yards, and new construction of semi-detached dwelling units at 1554 Pelham St. A more suitable, unused space currently exists on Chestnut St. and is likely to be developed in the future. The application for consent and its number of variances is not necessary.

PART B: OPPOSITION TO REQUEST FOR VARIANCE

Re: Section 6.16 (a) Parking Requirements

To permit 1 parking space absent of a private garage or carport whereas the by-law requires 1 parking space in a private garage or carport per dwelling unit

1. Is the variance minor?

The application for a variance of this magnitude calls into the question of whether or not this is a minor variance. Application for this variance directly contravenes *By-law 1136 Section 6.22 Reduction of Requirements* which states: “No person shall change the purpose for which any lot, building or structure is used or erect any new building or structure or addition to any existing building or structure **or sever any lands from any existing lot if the effect of such action is to cause the original, adjoining, remaining or new building, structure or lot to be in contravention of this Bylaw.**”

The application for consent places the existing structure, 26 Chestnut St., into contravention of an important existing By-law.

2. Would the granting of the variance result in a development that would be desirable for the appropriate development or use of the applicant’s land or building?

The site plan indicates a drastic reduction in the length of the driveway for the existing unit, 26 Chestnut St., leaving parking visible in the front/side portion of the unit with no carport or garage coverage. As by-laws are in place to prevent this type of planning, then it can be determined that the repercussions from this variance are **not desirable**.

The size of the structure and its accessory structures for the proposed lot call for drastic reductions to 26 Chestnut St. and is, therefore, not appropriate from a planning perspective.

3. Does the variance requested maintain the general intent and purpose of the zoning by-law?

Due to the lack of garage or carport, the variance requested implies a drastic **Reduction of Requirements**. It does not maintain the general intent and purpose of the zoning by-law 1136 Section 6.22. Clearly, by making the existing garage part of the proposed lot, the applicant is reducing the requirements of the existing lot, 26 Chestnut St., to meet the requirements for the proposed lot.

The application for this variance plays a dangerous “shell game” and is manipulating the general intent of the zoning by-law: if the applicant were to build an accessory structure (garage) at 26 Chestnut to satisfy the purpose of Section 6.16(a) of the by-law, the applicant would then require a variance of Section 6.1(d) Lot Coverage (Accessory Uses) for 26 Chestnut St., **in addition to** the variance sought for the proposed lot.

The application for this variance is manipulating the general intent of the zoning by-law. It is, in fact, insulting to the neighbours, where parking at 26 Chestnut was neatly concealed as per the by-law, but no longer will be if this variance is granted. The garage at 26 Chestnut St., by way of a zoning ruse will disappear.

As well, the application for this variance defies the purpose of this zoning by-law: all other new builds on existing lots, specifically 3 Hurricane Rd. and 1422 Pelham Street all have appropriate parking and garages. This begs the question “Why was this demanded of these applicants and not of this applicant?”

4. Does the variance requested maintain the general intent and purpose of the Official Plan (OP)?

The application for this variance seriously risks the integrity of the Town of Pelham Official Plan and its planning methods and guidelines. For the purpose of consistency, what is required of a new lot **must not minimize the requirements for an existing lot**; that is, what is required of a new lot must be consistently applied to all lots in the town. If a garage or carport is demanded by the zoning by-law for new builds on 3 Hurricane Rd. and 1440 Pelham St., then so must it be demanded for 26 Chestnut St. If this puts the unit at 26 Chestnut St. in jeopardy, **then it fails the test and the variance cannot be granted.**

The Town of Pelham's goals of density and intensification as set out in the Official Plan must not be achieved by a Reduction of Requirements as it risks reducing those requirements to nil and failing the Town's promise to "*respect the character of existing development and ensure that all applications for development are physically compatible with the character of the surrounding neighbourhood*" (Town of Pelham Official Plan A2.3.2) and "*to maintain and enhance the character and stability of existing and well-established residential neighbourhoods by ensuring that development and redevelopment is compatible with the scale and density of existing development.*" (Town of Pelham Official Plan A2.3.2)

Re: 14.2(e) Minimum Interior Side Yard

To permit a minimum interior side yard setback of 1.2m whereas the by-law requires a minimum interior side yard setback of 1.5m

1. Is the variance minor?

A variance of side yard set back directly impacts the property line between the proposed lot and the back of our property at 1585 Pelham St. N.

The proposed driveway would parallel the property line for approximately 15 meters, at a proposed distance of 1.2 meters from the fence and privacy cedar trees separating the properties and only 1 meter from the proposed dwelling unit.

This should be considered a **major variant** in that it allows for very little natural green space for drainage (water) and no area to pile snow for winter driveway clearing.

The proposed site plan indicates an area of approximately 40 square meters of driveway that would be shoveled and piled against the existing cedar trees and fence. With the proposed 1 meter between driveway and dwelling unit, it is unlikely that snow would be piled against the dwelling unit. This will greatly test the resiliency of the cedar trees and the integrity of the fence.

Both the fence and the cedar trees are integral to the privacy of the **much-utilized back yard space at 1585 Pelham St.** The owners of 1585 Pelham St. are not in a position to replace a fence, nor would it be possible to replace the mature cedar trees that offer necessary privacy, greenery, and light and noise reduction.

2. Would the granting of the variance result in a development that would be desirable for the appropriate development or use of the applicant's land or building?

While the applicant deems this variance to be desirable, the issue here is that this variance infringes upon the reasonable setback and risks damage to a privacy fence and mature cedar trees. What used to be a rear yard, is proposed to become a side yard dominated by a driveway.

The driveway running along the property line is **NOT** desirable for the reasons mentioned previously.

It cannot be considered desirable to develop a property that jeopardizes the structures and greenery of the adjacent property, particularly, when these are absolutely vital to the privacy and esthetics of this well-established and well-maintained property.

3. Does the variance requested maintain the general intent and purpose of the zoning by-law?

The intent and purpose of a zoning by-law is to prescribe the front, rear and side yard setbacks, building size, height and use. It speaks to matters such as spacing, privacy, density, light and air and gives the neighbourhood its built form and character.

The built form and character of 1585 Pelham St. relies on its greenery and private spaces. A variance of side yard set backs violates the intent of the existing by-law, as by its very nature was put in place to **protect adjacent properties** from such encroachments and risks to privacy and esthetics.

The pure scale of the proposed dwelling unit, its driveway and patio spaces are driving this motion to grant encroachment. Only a smaller, more reasonable construction would eliminate the need for a request for variance.

Ultimately, the size, scale and density of the proposal for a new lot and new build are raising issues and contradicting the general intents and purposes of zoning by-laws of the Town of Pelham. The application for this variance begs the question: Why does the proposed development have to be of such size, scale and density that it violates the intent and purpose of the zoning by-law and risks damage to structures and trees of a neighbouring property?

It is the burden of the applicant to ensure, beyond doubt that adjacent structures and properties will be preserved. To suggest, as has been in the applicant's Planning Justification Brief, that *"both the retained and severed lot still will maintain adequate rear and side yard landscaped amenity areas, spatial separation for privacy & building maintenance, and open space to manage stormwater runoff"* (Justification Brief 6), does not meet this burden necessary for granting this variance. The site plan shows **NO side yard** to the west of the proposed dwelling and seeks to accommodate its scale and density at the expense of the adjacent property at 1585 Pelham St.

4. Does the variance requested maintain the general intent and purpose of the Official Plan (OP)?

The Town of Pelham Official Plan specifically states: *The primary purpose of the Official Plan is to provide the basis for managing growth that will support and emphasize the Town's unique character, diversity, civic identity, rural lifestyle and heritage features and to do so in a way that has a positive impact on the quality of life and health for the citizens who live and work in Pelham. The Official Plan is the primary planning document that will direct the actions of the Town and shape growth and development and on this basis, this Plan establishes a vision for the future land use structure of the Town. (Town of Pelham Official Plan, A1 THE COMMUNITY VISION)*

It must be emphasized that the spirit of the Official Plan is to emphasize the town's *"heritage features and to do so in a way that has a positive impact on the quality of life...for the citizens who live...in Pelham."* The lots created in the area bordered by Broad St., Pelham St, Hurricane Rd and Chestnut St, are features of the original D'veverado Plan created before the turn of the 20th Century. The dwellings at 1585 Pelham St and 26 Chestnut St. date back to circa 1910. The reconfiguration of 26 Chestnut St. casts a negative on the historical features of what was once the Village of Fonthill.

Furthermore, the Official Plan seeks *"To respect the character of existing development and ensure that all applications for development are physically compatible with the character of the surrounding neighbourhood."* (Town of Pelham Official Plan A2.3.2). The reduction of side yard and back yard setbacks in development proposed at 26 Chestnut St. does not respect *"the character of existing development"* and can easily be deemed **incompatible** *"with the character of the surrounding neighbourhood."*

Re: Section 6.1 (d) Lot Coverage (Accessory Uses)

To permit a maximum of coverage of 20% of the lot area for all accessory buildings whereas the by-law allows a maximum lot coverage of 10% of the lot area for all accessory buildings.

1. Is the variance minor?

This variance is considered to be **major** in that it requests a **doubling** of the maximum coverage of the lot area for all accessory buildings.

2. Would the granting of the variance result in a development that would be desirable for the appropriate development or use of the applicant's land or building?

While the Town of Pelham planning report suggests that the retention of the existing garage on the proposed lot is desirable, the report does not make reference to the fact that with the retention of the existing garage and the size and scale of the proposed dwelling unit, **45.5 percent** of the proposed lot would be occupied by physical structures.

The site plan suggests that the remaining 44.6 percent of the lot space would be mostly driveway and hard surfaced patio areas. Very little open green space is retained as per the site plan. This cannot be deemed desirable or appropriate development from an environment and drainage perspective. The only greenspace left on the proposed lot is to the north of the proposed dwelling unit and the request 1.2 meter strips bordering the property.

Clearly, the size and scale of the proposed dwelling unit, the lack of open green space and the accessory building utilizing 19.2 percent of the proposed building lot pose real drainage concerns for the site itself and the neighbouring properties, **including the proposed 1.27 meter backyard** of 26 Chestnut St.

3. Does the variance requested maintain the general intent and purpose of the zoning by-law?

The density of the proposed lot and dwelling, where structures utilize nearly half of lot space, requires a **major variance** which **doubles** the maximum coverage for all accessory buildings. The granting of a major variance to an important By-law would set a concerning precedence, whereby current and future lot owners could seek application to dominate their properties with undesirable out buildings. If the Town of Pelham is to **double the maximums** set forth in this section of By-law 1136, what other maximums could be doubled as well.

4. Does the variance requested maintain the general intent and purpose of the Official Plan (OP)?

The Town of Pelham Official Plan has, as its goal, to “*respect the character of existing development and ensure that all applications for development are physically compatible with the character of the surrounding neighbourhood*” (Town of Pelham Official Plan A2.3.2) and “*to maintain and enhance the character and stability of existing and well-established residential neighbourhoods by ensuring that development and redevelopment is compatible with the scale and density of existing development.*” (Town of Pelham Official Plan A2.3.2)

Physical compatibility is in question in this application. Here, the developer seeks to “reduce requirements” on the one hand, and to “double the maximums” on the other hand. At what point does one realize that the developer’s vision is **incompatible in scale and density** with respect to the proposed lot itself, and the character of existing development”?

Reducing requirements and doubling maximums risk the creation of landscapes that are “*physically incompatible*” with the character of surrounding neighbourhoods and “*destabilize the character*” of existing and well-established neighbourhoods” – namely, the neighbourhoods of the Old Village of Fonthill, established during the late Nineteenth and early Twentieth Century.

David and Mary Jo Drago
[REDACTED] Pelham St. N
Fonthill, ON L0S 1E3

Committee of Adjustment
Town of Pelham
20 Pelham Town Square, P.O. Box 400
Fonthill, ON, L0S 1E3

17 April 2023

Dear Secretary Treasurer

Please accept this letter as an addendum to my previous letter of opposition to the Application for Consent at 26 Chestnut St.

In light of the implementation of the new Comprehensive Zoning By-law (4481) the following is to be considered by the Committee of Adjustment. Previous arguments are still to be considered; even though many no longer apply, the overall intent of the argument remains.

On 3 April 2023, "The Ontario Land Tribunal approved the order with the result that the Comprehensive Zoning By-law is deemed to have come into force on August 30, 2022." Furthermore, "the Comprehensive Zoning By-law regulates the use of land throughout the Town of Pelham in accordance with Section 34 of the *Planning Act*. The Comprehensive Zoning By-law has been updated to conform to the Town Official Plan, Region of Niagara Official Plan and Provincial legislation. The effect of the Comprehensive Zoning By-law will be improved development parameters that help create a more attractive, prosperous and livable community. (<https://engagingpelham.ca/comprehensive-zoning-bylaw-review>).

Be it noted, that in the Town of Pelham press release dated 4 April 2023, director of community planning and development Barbara Wiens stated the following: "With fundamental shifts in the focus of the provincial, regional, and local policy framework since the previous 1987 zoning by-law, Pelham has worked with public consultation, staff and Council to align the Comprehensive Zoning By-law with the current planning policy framework at all levels of government." (<https://engagingpelham.ca/comprehensive-zoning-bylaw-review>)

It is clear, therefore, that after one year of serious deliberation and review, public consultation and consultation with all levels of government the Town of Pelham adopted its new Comprehensive Zoning By-law as one that conforms to the Town Official Plan, the Region of Niagara Official Plan and Provincial legislation.

Concerning the Residential R2 Zone

The new Comprehensive Zoning By-law (4481) sub-section 6.2 sets the following Zone Requirements for Single Detached Dwellings:

Minimum Lot Frontage 12.0m

Minimum Lot Area 360m²

Minimum Front Yard 3.0m except 6.0m where there is an attached garage

Maximum Front Yard 6.0m Minimum Side Yard 1.2m

Minimum Corner Side Yard 3.0m

Minimum Rear Yard 7.5m

It is argued, therefore, that these are the requirements that “conform to the Town Official Plan, the Region of Niagara Official Plan and Provincial legislation.” The Town of Pelham has created these requirements to “regulate the use of land, buildings and structures in the Town of Pelham.”

These requirements allow for reasonable development and are implemented to allow for reasonable density in urban areas as determined by the Town of Pelham, Niagara Region and Provincial legislation. The requirements are **minimums**, and, as such, should not be reduced any further. To seek further reduction of these requirement precludes that a proposed lot is **NOT** feasible for consent or building.

Concerning the Application of the Zoning By-law

The new Comprehensive Zoning By-law (4481) is to be applied so that “No person, other than a public authority, shall reduce any lot by conveyance or otherwise so that it does not meet the requirements of this By-law, or if it did not meet the requirements initially, that it is further from meeting them.” [*Town of Pelham Zoning By-law 4481, 1.3(b)*]

It is argued that this direction in the By-law conforms “to the Town Official Plan, the Region of Niagara Official Plan and Provincial legislation” and that the Town of Pelham, therefore, opposes any development that reduces another lot and places that existing lot in non-compliance of the Town of Pelham’s zoning By-laws.

The application of the new Comprehensive Zoning By-law (4481) also dictates that “Except as provided otherwise within a specific zone, accessory buildings and structures not attached to the main building shall:

c) Not be located in any required front yard or the **required exterior side yard**;

e) Have a total lot coverage for all accessory buildings **of not more than 10% in any Residential Zone** and not more than 5% in any other Zone and the maximum lot coverage for all buildings shall not exceed the maximum lot coverage of the zoning category in which the property is located.”

It is argued that this direction in the Comprehensive Zoning By-law (4481) conforms “to the Town Official Plan, the Region of Niagara Official Plan and Provincial legislation” and that the Town of Pelham opposes lots where garages, sheds and other outbuildings occupy a significant portion, **more than 10%**, of the lot. As this exists in the new Comprehensive Zoning By-law (4481), it is also a part of the greater vision of the Official Plan of the Town of Pelham, the Niagara Region and the Province of Ontario.

Concerning File Number: A7/2023P and File Number A6/2023P

As of 3 April 2023, the Application for Consent and Application for Minor Variance at the Subject Land known municipally as 26 Chestnut St. the new Comprehensive Zoning By-law (4481) no longer requires minor variances to heard concerning the following:

Section 6.16(a) “Parking Requirements -NO LONGER REQUIRED

Section 6.1(b) “Location Accessory Uses – NO LONGER REQUIRED

Section 14.2 (d) “Minimum Front Yard - NO LONGER REQUIRED

Section 14.2(e) “Minimum Interior Side Yard – NO LONGER REUIRED

The new Comprehensive Zoning By-law (4481) deems the proposal by the applicant to be within the parameters of the By-law in these four areas. Minor variance is no longer required and the applicant can be deemed in conformity “to the Town Official Plan, the Region of Niagara Official Plan and Provincial legislation.”

As the four former items are now in compliance with the new Comprehensive Zoning By-law, **attention must be directed to the three main areas** in the Application for Consent and Variance that do NOT comply with the new Comprehensive Zoning By-law and are to be considered NON-CONFORMING “to the Town Official Plan, the Region of Niagara Official Plan and Provincial legislation.” The areas of dispute include the following:

1. The applicant’s request to permit a minimum lot area of 350sm whereas the by-law requires a minimum lot area of 360sm
2. The applicant’s request to permit a maximum lot coverage of 20% of the lot area for all accessory buildings whereas the by-law allows a maximum lot coverage of 10% of the lot area for all accessory buildings.
3. The applicant’s request to permit a minimum rear yard setback of 1.2m whereas the by-law requires a minimum rear yard set back of 7.5m.

These are **major** variances and if granted completely eradicate the new Comprehensive Zoning By-law (4481). The sub-sections concerning **MINIMUM LOT AREA, LOT COVERAGE (ACCESSORY USES) and MINIMUM REAR YARD** are the few sub-sections of the former Zoning By-law governing Residential R2 areas not to have been reduced after thorough review,

public consultation and consultation with all levels of government. They are, in a sense, sacrosanct: by their very nature, they are too important, too valuable to be interfered with or altered.

Please refer to previously submitted arguments proving that the application for consent and variance does not pass the Four Tests and, therefore, cannot be granted.

As well, the site plan provided by the applicant shows the relocation of a shed, existing in the back yard of 26 Chestnut, to be relocated to the “exterior side yard” of the reduced property at 26 Chestnut. An exterior side yard is defined as “a side yard immediately adjoining a public street.” The visual illustration provided in the new Comprehensive By-law (4481) clearly defines this.

It is argued that the applicant has mistaken this for an “interior side yard.” The applicant’s proposed placement of the existing shed, as per the site plan, is in violation of the Comprehensive Zoning By-law (4481) and must require application for variance for proposed location. To then place the existing shed within the “interior side yard” would further diminish the property to the south and clearly diminish the patio space at the proposed development. So, there is no place on 26 Chestnut St. to accommodate the shed: not the exterior side yard, not the interior side yard, nor the front yard. This is the consequence of reducing back yard requirements.

Neither the Town of Pelham, the Niagara Region nor the Province of Ontario envision urban zones with no back yards.

Neither the Town of Pelham, the Niagara Region nor the Province of Ontario envision urban zones with lots covered by sheds, garages and other outbuildings.

Neither the Town of Pelham, the Niagara Region nor the Province of Ontario envision urban zones that haphazardly reduce minimum lot sizes to promote density at the expense of character and uniformity.

Neither the Town of Pelham, the Niagara Region nor the Province of Ontario envision urban zones that allow lots to be created while compromising the conformity of an existing lot.

To allow such is to set precedent that will become a banquet feast for residents and developers throughout the town. It will have serious repercussions concerning the character and beauty of the established urban areas in the Town of Pelham.

To quote Barbara Wiens, the new Comprehensive Zoning By-law is designed to “help create a more attractive, prosperous and livable community.”

It is for these reasons, and the reasons previously submitted, that consent and variance cannot be granted at 26 Chestnut St.

Sincerely yours,

David and Mary Jo Drago

From: [REDACTED]
To: [Sarah Leach](#)
Subject: FW: 26 chestnut st.
Date: Monday, March 20, 2023 11:29:40 AM

----- Forwarded Message

From: Gary [REDACTED]
Date: Mon, 20 Mar 2023 11:28:12 -0400
To: <JWINK@PELHAM.CA>
Conversation: 26 chestnut st.
Subject: FW: 26 chestnut st.

----- Forwarded Message

From: Gary [REDACTED]
Date: Mon, 20 Mar 2023 11:24:40 -0400
To: <mjunkin@pelham.ca>
Conversation: 26 chestnut st.
Subject: 26 chestnut st.

To TOWN COUNCIL

THIS IS INTO THE PERMIT FOR 26 CHESTNUT ST.

I AND MY FELLOW NEIGHBOURS STRONGLY DISAGREE WITH THESE MINOR VARIANCES

HERE IS A LIST WHY FIRST 8 VARIANCES IS A LITTLE TOO MANY

- 1. IT IS GOING TO TO CLOSE TO THE ROAD**
- 2. GOING TO BE TO CLOSE TO TWO PROPERTIES ON CHESTNUT AND NORTH PELHAM**
- 3. THE GARAGE AND COVERED PATIO IS ONLY 1 METER FROM PROPERTY LINE.**
- 4. NOT ENOUGH GREEN SPACE.**
- 5. NO PARKING ON 26 CHESTNUT ST.**
- 6. CUTTING DOWN 3 TREES ON PROPERTY.**
- 7. CUTTING DOWN ATLEAST 8 TREES ON HURRICANE RD.**
- 8. LOOKS LIKE 1 OR MAYBE 2 HYDRO POLES GOT TO BE MOVED.**
- 9. NO DRIANAGE ON HURRICANE RD. FOR RUN OFF.**
- 10. HERE WE GO AGAIN A NEW ROAD TO BE TORNEN UP AGAIN FOR LINES**
- 11. I KNOW THEY PATCH BUT NEVER THE SAME.**

**IF THE COMMITTEE AND COUNCIL AGREE TO THIS THEY ARE OPENING A
CAN OF**

**WORMS FOR OTHER CONTRATORS AND PEOPLE TO DO THE SAME YOU
DO FOR ONE**

YOU GOT TO DO FOR ALL I HOPE YOU GUYS TURN THIS DOWN

THANK YOU GARY BIRCH [REDACTED] CHESTNUT ST. [REDACTED] -

COPY TO B ECKHARDT ,J. WINK,S. LEACH

----- End of Forwarded Message

----- End of Forwarded Message

Regarding 26 Chestnut St.

In response to the proposed variances:

To ask for 8 variances is completely unreasonable. Some of which are in no way minor but very major.

Section 14.2(d) "Minimum Front Yard" - to permit a minimum front yard setback of 3m whereas the by-law requires a minimum front yard setback of 6.5m

This is less than half of the permitted minimum setback. Hardly minor.

Section 6.1 (d) "Lot Coverage (Accessory Uses)" - to permit a maximum lot coverage of 20% of the lot area for all accessory building whereas the by-law allows a maximum lot coverage of 10% of the lot area for all accessory buildings

This section is asking that DOUBLE the lot coverage be permitted.

Section 14.2(g) - "Minimum Rear Yard" - to permit a minimum rear yard setback of 1.2m whereas the by-law requires a minimum yard setback of 7.5m

Again, 1.2m is an extreme discrepancy from 7.5m

We as residents and homeowners of the immediate area reject this proposal. Not only are 8 variances being called for, it will directly impact the character and enjoyment of the neighbourhood.

According to the Town of Pelham Official Plan:

Schedule A2.2 GROWTH AND SETTLEMENT States:

A2.1.2: The Goal: "To make planning decisions that avoids negative environmental impacts as a first priority, with secondary priority given to mitigation of negative impacts."

A2.3 URBAN CHARACTER States:

A2.3.1 The Goal: "It is a goal of this Plan to protect and enhance the character of the existing Urban Areas."

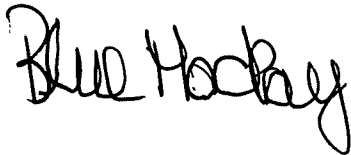
A2.3.2 "To respect the character of existing development and ensure that all applications for development are physically compatible with the character of the surrounding neighbourhood."

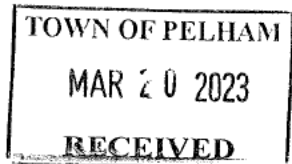
A2.3.2 "To maintain and enhance the character and stability of existing and well-established residential neighbourhoods by ensuring that development and redevelopment is compatible with the scale and density of existing development."

None of these Goals or Plans are being met in this proposal.

We appeal to you, Pelham Council. You were elected by the community to uphold the by-laws, zoning and Plans. This application is not just asking for one small variance but 8! The cutting down of trees and placement of such a large house on such a small lot is not characteristic of our neighbourhood. Neither is the proposed proximity between houses. We reject this proposal.

Blue Mackay

A handwritten signature in black ink that reads "Blue Mackay". The signature is written in a cursive, flowing style with a large initial 'B'.



In response to the proposed variances for 26 Chestnut St. Fonthill,

File Number: B5/2023P Lot 17 on Plan 716

I Cheryl Lapalme who resides at

████ Chestnut St. in Fonthill absolutely decline the proposed variances and new build on 26 Chestnut St. Fonthill.

I have lived here for eight years.

When I moved here the street was quiet and quaint. There have been many changes in Fonthill, Pelham in the past eight years. I understand the need for change as the town continues to grow and evolve.

This, however, is totally unnecessary and in my opinion, is self-serving.

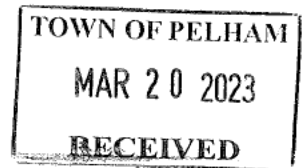
There not enough space to build a house on the proposed lot. Not to mention the removal of all the trees and wild life. This new build encroaches close to my property line. It is disruptive not to mention many other concerns.

Attached is a list of my concerns:

- Too much traffic on Hurricane Rd.
This is an accident waiting to happen.
- Parked cars all along Hurricane Rd and in front of our houses for visitors.
- The new propose garage to be rebuilt is too close to the property line legally it should be 1.2 m from that space.
- 8 proposed variances?? Too many to accommodate.
- How is this respecting the character and stability of existing and well-established residential neighbourhood.
- If we accept this proposal, it sets the bar for future developments.
- Not enough drainage on Hurricane Rd.
- Removal of a telephone pole.

Please consider my concerns for this proposal.

Cheryl Lapalme
████ Chestnut St.
Fonthill, On
L0S 1E3
████



To the Secretary Treasurer:

To Whom it may Concern:

We are writing in response to File# B5/2023P and Files A62023P, A7/2023P the subject land of 26 Chestnut St. Pelham, Lot 17 on Plan 716.

We the undersigned object to the variances proposed for a second Dwelling on the lot of 26 Chestnut St., which is not big enough for two dwellings within the zoning bylaws in place. These bylaws are here for reasons such as these, so houses do not get to close to each other which can cause problems with disputes between neighbours down the road. Not to mention fire and storm damages. We liked our quiet neighbourhood before all these changes, now we put up with parked cars on both side of the roads on streets to narrow to drive through. Speeding cars all hour's day and night. We say no to these proposed variances and changes to made.

Robert and Victoria McCauley

████ Chestnut St. Pelham

Robert, E, McCauley.
March, 17 2023

Victoria McCauley
March 17, 2023



**Community Planning and Development Department
Committee of Adjustment**

Monday, May 01, 2023

Minor Variance Application: A7-2023P

Municipal Address: 26 Chestnut Street (Part 2 on Sketch)

Legal Description: Lot 17 on Plan 716

Roll number: 2732 020 003 04900

Nature and Extent of Relief/ Permission Applied for:

The subject land is located on the south side of Hurricane Road, lying west of Chestnut Street, being Lot 17 on Plan 716 in the Town of Pelham, known locally as 26 Chestnut Street (Part 2 on Sketch) in the Town of Pelham.

The subject land is zoned Residential 2 (R2) in accordance with Pelham Zoning By-law 4481(2022), as amended. Note that this application is being heard in conjunction with Consent File B5/2023P. Application is made for relief to rectify a zoning deficiency as a result of consent application B5/2023P. The lands currently contain an existing single detached dwelling. Relief is sought from the provisions of the Zoning By-law:

- a) **Section 6.2.2** – Minimum Rear Yard - seeking minimum setback of 1.2m whereas 7.5m is required.

The requested variance is intended to provide minor flexibility in the event the final survey confirms the setback to be marginally smaller than what is shown on the sketch.

Applicable Planning Policies:

Planning Act, R.S.O. 1990, c.P.13

Section 45 (1) states that the Committee of Adjustment may authorize minor variance provisions of the Zoning By-law, in respect of the land, as in its opinion is (1) minor in nature, (2) objectively desirable for the appropriate development or use of the land, and the general intent and purpose of the (3) Zoning By-law and (4) Official Plan are maintained (the "Four Tests"). A discussion of the four tests is included below.

Provincial Policy Statement (2020)

The Provincial Policy Statement (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 suitable development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment.

Section 3 of the Planning Act requires that decisions affecting planning matters “shall be consistent with” policy statements issued under the Act. The PPS recognizes the diversity of Ontario and that local context is important. Policies are outcome-oriented, and some policies provide flexibility provided that provincial interests are upheld. PPS policies represent minimum standards.

The subject land is located in a ‘Settlement Area’ according to the PPS. Policy 1.1.3.1 states that settlement areas shall be the focus of growth and development.

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.

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.

Infill development is an acceptable form of *intensification* so long as new development is compatible in nature, is compact, and avoids adverse impacts to provincial interest, public health, safety and the quality of the human environment.

Planning staff are of the opinion the requested zoning relief is consistent with the PPS and promotes appropriate development standards that help facilitate compact form and *intensification*.

Greenbelt Plan (2017)

The lands are located outside of the Greenbelt Plan and thus the policies of the Greenbelt Plan do not apply.

Growth Plan for the Greater Golden Horseshoe (2020)

The Growth Plan informs decision-making regarding growth management and environmental protection in the Greater Golden Horseshoe (GGH). All decisions made after May 16, 2019 that affect a planning matter will conform to this Growth Plan, subject to any legislative or regulatory provisions providing otherwise. The policies of this Plan take precedence over the PPS to the extent of any conflict.

The subject lands are located within the Delineated Built Boundary. Section 2.2.1 of the Growth Plan directs growth to settlement areas that have a delineated built boundary, have existing municipal services, and can support the achievement of complete communities. The Growth Plan states municipalities will support the achievement of complete communities by planning to accommodate forecasted growth, planning to achievement the minimum intensification and density targets of the Plan, considering the range and mix of housing options and densities of existing housing stock, and planning diversify overall housing stock.

Planning staff are of the opinion the proposed minor variance conforms with the Growth Plan.

Town of Pelham Official Plan (2014)

The Town of Pelham Official Plan is the primary planning document that will direct the actions of the Town and shape growth that will support and emphasize Pelham's unique character, diversity, cultural heritage and protect natural heritage features.

The local Official Plan designates the subject land as 'Urban Living Area / Built Boundary.' Section B1.1.2 outlines the permitted uses and intentions of this designation, which are supportive of the development of lower density residential uses as part of a complete community.

Policy A2.2.2 Growth & Settlement – states that it is a goal of this Plan to encourage intensification and redevelopment within the *Urban Area* specifically in proximity to the Downtown. The proposal is seen as an appropriate form of intensification in the Urban Area.

Policy A2.3.2 Urban Character – stated objectives of this Plan include:

- To respect the character of existing development and ensure that all applications for development are physically compatible with the character of the surrounding neighbourhood.

- To encourage the intensification and use of the lands within the downtown core of Fonthill and to make every effort to improve the economic health of the core by encouraging redevelopment and the broadest mix of compatible uses.
- To encourage the development of neighbourhoods which are compact, pedestrian friendly and provide a mix of housing types, community facilities, small-scale commercial centres and public open spaces.

The character of this neighbourhood is an eclectic mix of housing and density including single detached and townhouse units reflecting a variety of housing styles from traditional to modern and constructed over a variety of era's of development. For example, the existing house on Part 2 was constructed in 1911 and the garage in 1986, the townhouses at 1599 Pelham Street across the road from the subject lands were constructed in the late 1970's and recently new single detached dwellings on the north side of Hurricane Road were constructed this year. The dwellings on adjacent properties were also constructed between 1910-1912. The neighbourhood is considered to be a stable established neighbourhood that has been experiencing some recent intensification with the approval of four new residential lots at 3 Hurricane Road, however it is reflective of a neighbourhood that has experienced change at different times and has evolved over time such that changes have been successfully absorbed into the fabric of the neighbourhood. The retained lot would continue to provide a residential use that contributes to the eclectic character of the area.

Section B1.1 of the Official Plan provides the policy base of the Urban Living Area designation. 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. The proposal is supported by the Town Official Plan policies that encourage infill within existing built-up areas. It is noted compatibility does not necessarily mean the same as, rather the ability to coexist together.

Policy E1.5 states that in addition to the *Planning Act's four tests* considered in determining whether to grant a minor variance, applicants should be prepared to demonstrate a need for the requested relief on the basis that the subject zoning provision is not warranted in a particular circumstance, causes undue hardship, or is otherwise impossible to comply with. The applicant provided a planning justification brief providing an analysis of the requested variances.

Although the *Planning Act*, and Provincial planning case law does not recognize the demonstration of 'need' or 'hardship' as a *fifth test* of a minor variance, the local Official Plan raises this matter.

Town Planning staff are of the opinion the proposed minor variance conforms to the local Official Plan as it helps enable appropriate redevelopment and *intensification* within an existing residential neighbourhood and does not conflict with any policies subject to demonstration of appropriate urban design and fulfillment of the proposed conditions of approval.

Town of Pelham Zoning By-law No. 4481(2022), as amended

The subject lands are zoned Residential 2 (R2) in accordance with Pelham Zoning By-law 4481(2022), as amended.

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

Minor Variance Test	Test Response Explanation
The variance is minor in nature.	Yes, the variance is minor in nature. There is no precise definition or mathematical equation as to what constitutes minor. "Minor" is a relative term to be interpreted in the based on the individual circumstance of each application and lends itself to the degree of impact. The variance requests a reduction to 1.2 metres from the required 7.5 metres. It is noted the requested variance would recognize the setback from the proposed new lot line to the existing dwelling on Part 2 which is to be maintained. The site maintains a generous landscaped amenity space that can be used. The exterior side yard is fenced and there is a tree buffer along the street edge providing privacy for this area to function as amenity space for the dwelling. The existing shed on Part 1 will be relocated to this area also helping to frame and enclose this area making it more private. The impact of the reduction in the rear yard setback can be considered minor in this instance as functional private amenity area is still maintained on the site. Drainage concerns will be addressed through a lot grading and drainage plan that will ensure drainage is addressed on site and will not rely on neighbouring properties. As such, it is the opinion of staff the variance is considered minor in nature.
The variance is desirable for	Yes. The requested variance is considered to be desirable for the appropriate development or use of the land. The requested variance

the development or use of the land.	is not anticipated to have a significant negative impact on the streetscape or adjacent properties as the existing dwelling will be maintained. The reduction to the rear yard setback in this instance is desirable as appropriate private amenity area will be maintained on the site in the exterior side yard. As such, staff are of the opinion that the variance is desirable for the development or use of the land.
The variance maintains the general intent and purpose of the Zoning By-law.	Yes, the variance maintains the general intent and purpose of the Zoning By-law. The intent of the rear yard setback is to ensure separation distance between abutting residential uses and to ensure there remains adequate amenity area for the lot in question. The property will maintain a generous side yard amenity space and reasonable separation with the proposed dwelling on Part 1. With regards to the reduced rear yard, lot grading and drainage requirements are recommended as a condition of approval for the proposed development. A condition is being recommended that requires the proponent to prepare a grading and drainage plan to the satisfaction of the Director of Public Works that demonstrates that appropriate on-site drainage can occur without adversely impacting adjacent properties. As such, staff are of the opinion the maintain maintains the intent and purpose of the Zoning By-law.
The variance maintains the general intent and purpose of the Official Plan.	Yes, the variance maintains the general intent and purpose of the Official Plan. Staff are of the opinion that the requested variance is not considered to have significant impacts within the context of the Official Plan. The subject land's use is within the permitted use of the Urban Living Area / Built Boundary designation. The variance will facilitate appropriate redevelopment and intensification within an existing residential neighbourhood and does not conflict with any policies subject to demonstration of appropriate urban design and fulfillment of the proposed conditions of approval, including a lot grading and drainage plan. As such, staff are of the opinion the proposed variance maintains the general intent and purpose of the Official Plan.

Agency and Public Comments:

On April 5, 2023, a revised 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.

This revised notice recognizes the April 3, 2023, decision of the Ontario Land Tribunal which ordered that the new Town of Pelham Comprehensive Zoning By-law 4481 (2022) is now in full force and effect save and except as it applies to site specific lands identified on Appendix 1 of the decision, and is deemed to have come into force on the day the ZBL was passed, namely August 30, 2022.

To date, the following comments have been received:

- Building Division
 - No comments.
- Public Works Department
 - Town is not supportive of Section 6.2.2 Minimum Rear Yard setback
- Hydro One
 - No comments or concerns.

Five (5) public comments were received at the time of writing this report. The comments are included in full on the public agenda and summarized below.

David and Mary Jo Drago

- *Opposes the consent and variances; Concerns relating to negative impacts of reduced lot area, setbacks, coverage; Concerned with negative impacts on the character of the neighbourhood; Concerns with lack of green space and impacts for stormwater runoff/drainage; Concerns related to a lack of amenity area and loss of mature trees and no egress to an open yard; Suggested second dwelling unit would be more appropriate for the site; Concerns with compatibility related to an overbuild of the site; Concerns with the scale of the proposed dwelling; Concerns with privacy and overlook on neighbouring properties; Concerns the number of variances does not respect the intent of the Zoning By-law; Concerns related to scale and density; Concerns related to the intensification of the surrounding area; Concerns the proposed variances associated with the consent application do not meet the four tests of the Planning Act; Concerns the retained lot will not maintain a carport or private garage; Concerns with snow storage and potential impacts on neighbouring properties and integrity of existing cedars and fence; Concerns with light and noise impacts; Concerns with the size, scale, and density of the proposal; Concerns related to impacts on the heritage/character of the surrounding neighbourhood; Concerns with precedence setting;*

Blue Mackay

- *Opposes the consent and variances; Concerns with respect to the character and compatibility of the proposal with the surrounding neighbourhood; Concerns the proposed variances associated with the consent are not minor in nature;*

Cheryl Lapalme

- *Opposes the consent and variances; Concerns with the removal of trees; Concerns with traffic impacts on Hurricane Road; concerns the number of variances requested is not minor; concerns respecting the character and stability of the existing neighbourhood; Concerns related to parking on public road; Concerns with drainage along Hurricane Road;*

Robert & Victoria McCauley

- *Opposes the consent and variances; Concerns lot area is not large enough to support dwelling; Concerns with fire and storm drainage; Concerns with parking and traffic impacts on local streets;*

Gary Birch

- *Opposes the consent and variances; Concerns related to reduction of green space and loss of private trees; concerns related to drainage along Hurricane Road; Concerns with impacts of construction; Concerns with potential removal of hydro pole; Concerns with precedence setting;*

Planning Staff Comments:

Planning staff have reviewed the *Planning Justification Brief* submitted by Better Neighbourhoods Development Consultants dated February 27, 2023, as well as reviewed all agency and public correspondence submitted to date and offer the following for the Committee's consideration:

When considering any Planning Act application, a planner must always consider the "public interest" and ensure that their professional recommendations take this concept into account. In very general terms the public interest reflects policy and the common well-being of a population but often is confused with public opinion or personal interests of the public. Public opinion is what various stakeholders think and say about an issue at a point in time; public interest is an attempt to identify and address the underlying concerns today and into the future, and to balance them against one another, to reach a recommendation. For any project, there is often more than one public interest, and it is the responsibility of the planner to identify and balance these multiple interests to meet the identified needs reflected in public policy.

With regards to hardship, Planning staff note that if the rear yard is to be maintained at 7.5m, there would be significant impact on the proposed lot on Part 1 which is not desirable and would be a hardship.

Based on the analysis given in above sections, staff is of the opinion the proposal:

- makes efficient use of the land;
- will not result in overbuilding of the property;
- will not alter the view, sightlines or personal enjoyment of the subject property or any neighbouring properties; and,
- should not negatively impact the surrounding neighbourhood with regards to land use incompatibility, traffic, privacy, and storm water runoff.

The requested variance is minor in nature, conforms to the general policies and intent of both the Official Plan and Zoning By-law and is appropriate for the development and use of the land.

Planning Staff Recommendation:

Planning staff recommend that minor variance file A7/2023P **be approved** subject to the following condition(s):

THAT the applicant:

- Submit a comprehensive Lot Grading & Drainage Plan for all parcels demonstrating that the drainage neither relies, 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, or designate.
- That the approval of the minor variance A7/2023P is subject to the final certification of Consent File and B5/2023P.

Prepared and Submitted by:

Lindsay Richardson, MCIP, RPP
Policy Planner

Recommended by:

Barbara Wiens, MCIP, RPP
Director of Community Planning and Development Department

Memo

To: Sarah Leach, Deputy Clerk

CC: Jason Marr, Director of Public Works; Barb Wiens, Director of Planning and Development; Derek Young, Manager of Engineering; Nicholas Palomba, Engineering Technologist; Lucas Smith, Engineering Technologist

From: Gimuel Ledesma, Engineering Technologist

Date: April 21, 2023

File No: A7/2023P

RE: Minor Variance – 26 Chestnut Street (Part 2)

The Public Works Department has reviewed the submitted documentation regarding the proposed minor variance of 26 Chestnut Street. The subject land is zoned Residential 2 (“R2”) in accordance with Pelham Zoning By-law 4481(2022), as amended. Application is made for relief to rectify zoning deficiencies as a result of consent application B5/2023P, from:

Section 6.2.2 “Minimum Rear Yard” – to permit a minimum rear yard setback of 1.2m whereas the by-law requires a minimum rear yard setback of 7.5m.

This application is being considered concurrently with Consent File B5/2023P and Minor Variance File A6/2023P.

Public Works offer the following comments:

- Town is not supportive of **Section 6.2.2 Minimum Rear Yard** (Refer to comments for B5/2023P)

Public Works offer the following conditions:

- Town staff will require a comprehensive lot grading and drainage plan demonstrating that storm water runoff will not negatively impact nor rely upon neighboring properties, to the satisfaction of the Director of Public Works or his designate.

To: Sarah Leach

Cc: Lindsay Richardson

From: Alex Foisey, Building Intake/Zoning Technician

Date: April 19th, 2023

Subject: Building Comments on Applications to the Committee of Adjustment for
26 Chestnut, Pelham

File Number: A7/2023P

Comment:

- Building Department has no comment.

Respectfully,
Alex Foisey

MAY 1ST, 2023

26 Chestnut Street, Fonthill Severance & Minor Variance



Site Context

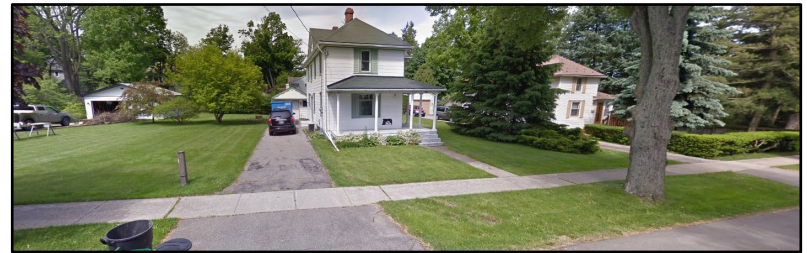
- North → Townhouses and Single Detached Residential



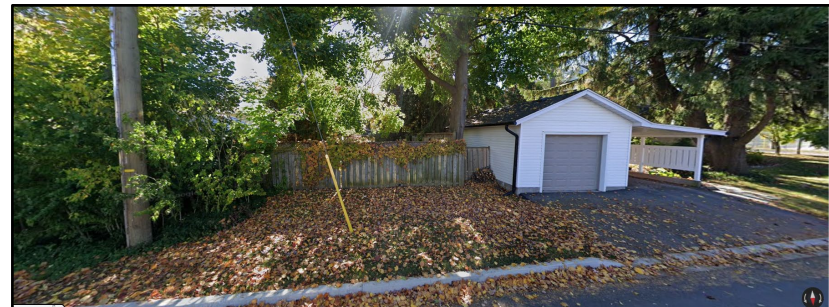
- East → Single Detached Residential



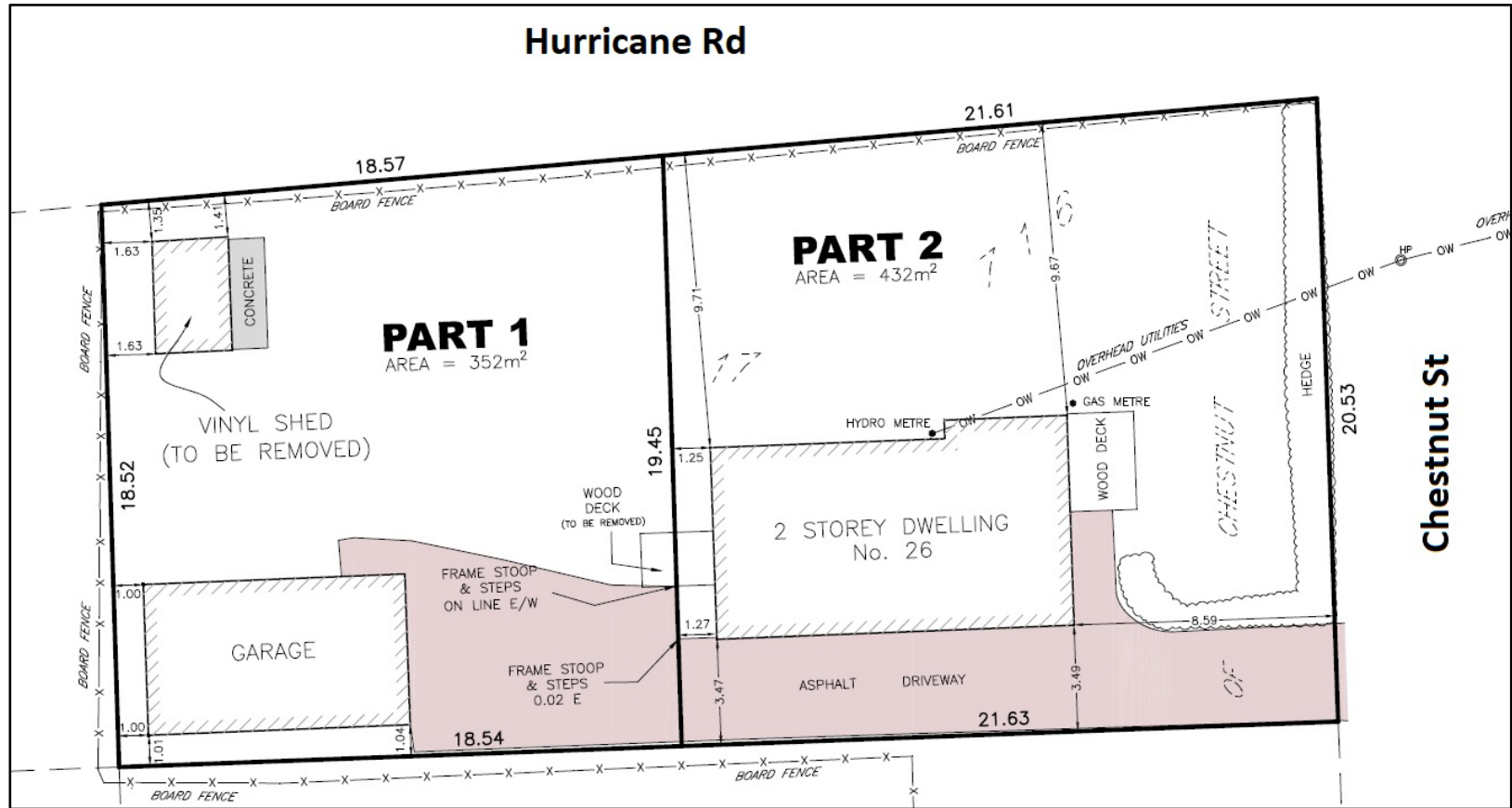
- South → Single Detached Residential



- West → Single Detached & Duplex Residential

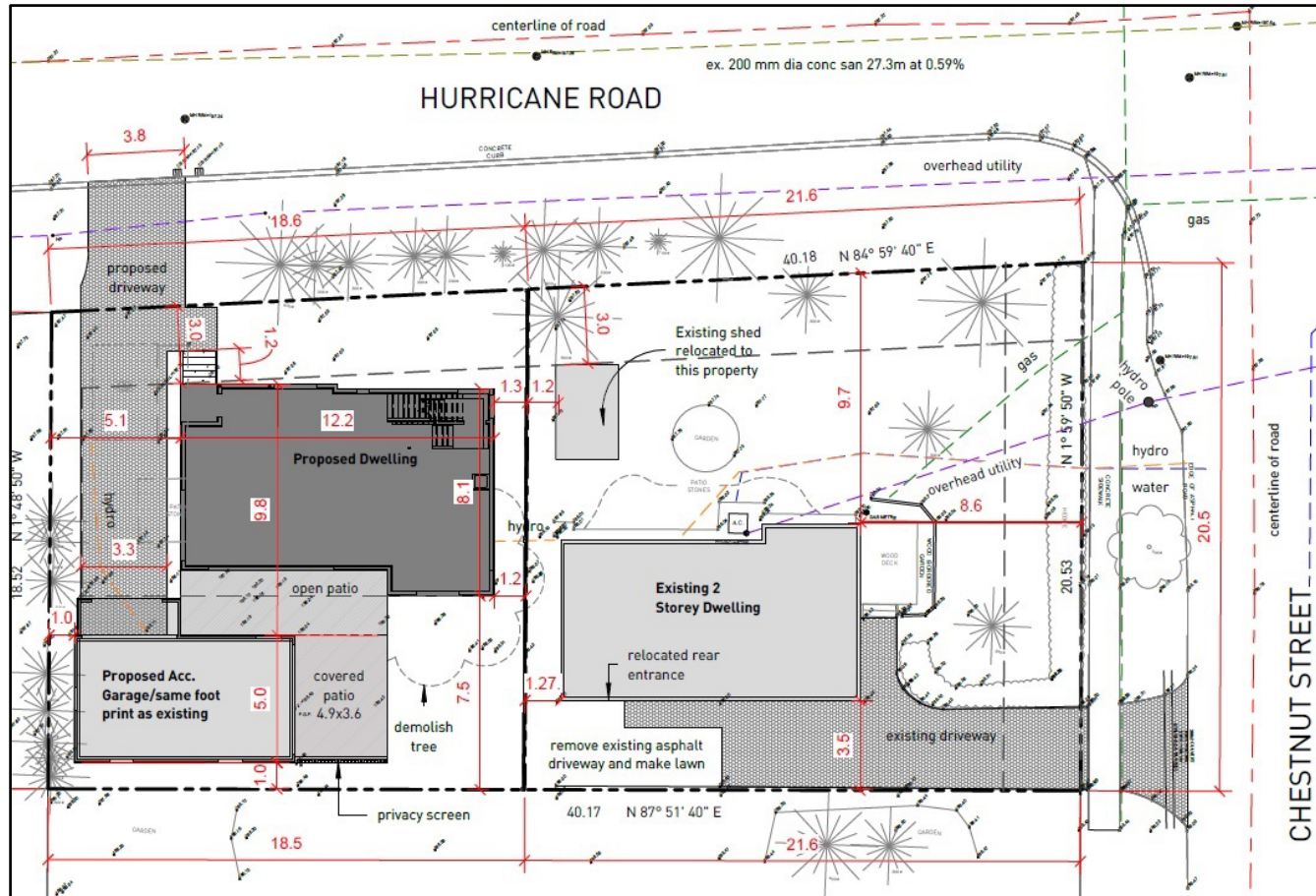


Proposed Severance



- Sever existing 784 m² corner lot & create one new lot fronting Hurricane Rd on a 352 m² lot (Part 1)
- Preserve existing detached dwelling & shed.
- Shed to be relocated onto retained lot (Part 2).
- Maintain existing detached garage footprint with potential small expansion.

Proposed Site Plan



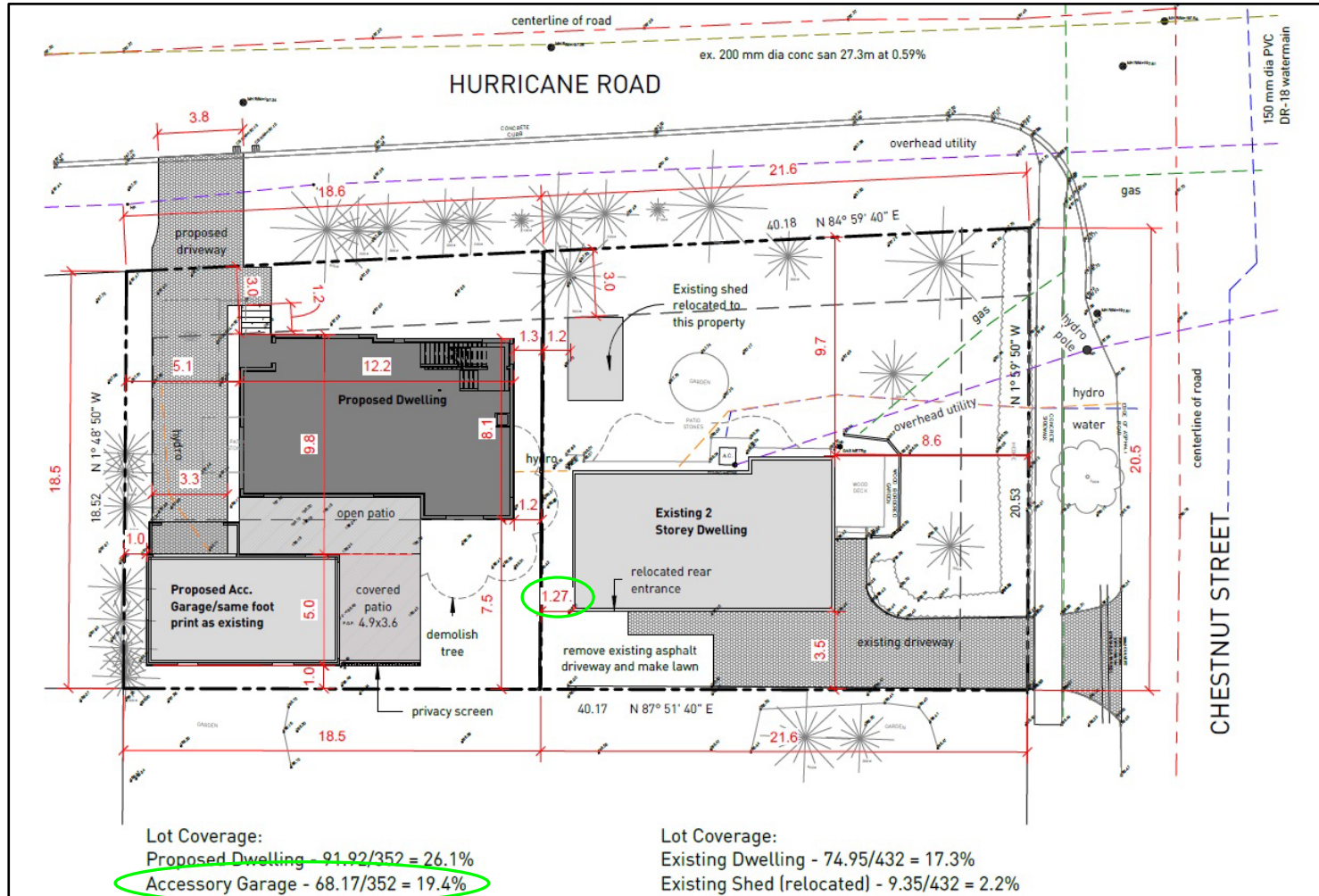
Severed Lot:

- New single detached dwelling fronting Hurricane Rd
- Remove existing driveway that formerly served garage
- No tree or fence removal along western lot line
- Large trees on Town boulevard will not be impacted by new driveway

Retained Lot:

- Remove portion of driveway and restore with landscaping
- Rear yard reduction is technical in nature given house orientation & lot geometry

Proposed Minor Variances



Severed Lot:

- Min Lot Area: $360 \text{ m}^2 \rightarrow 352 \text{ m}^2$
- Max Lot Coverage (Accessory Building): $10\% \rightarrow 20\%$

Retained Lot:

- Min Rear Yard: $7.5 \text{ m} \rightarrow 1.2 \text{ m}$



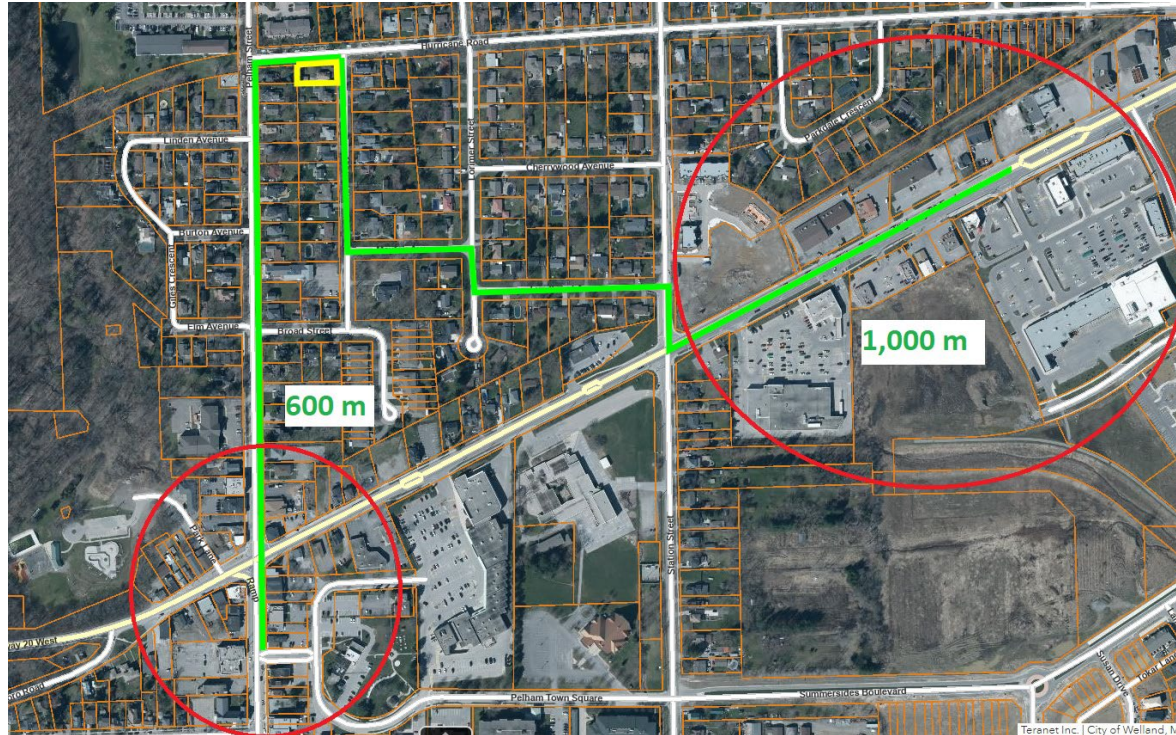
- Pedestrian-oriented design + subordinated rear yard garage.
- Human-scale proportions + prominent front-entrance.
- Vertically dominant + aligned windows at proper elevation help engage the street level.

Proposed Elevation Plans



Town of Pelham Official Plan

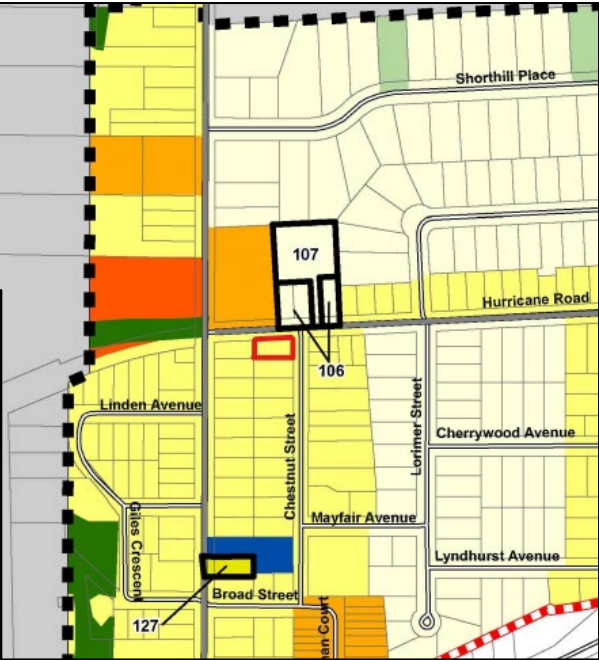
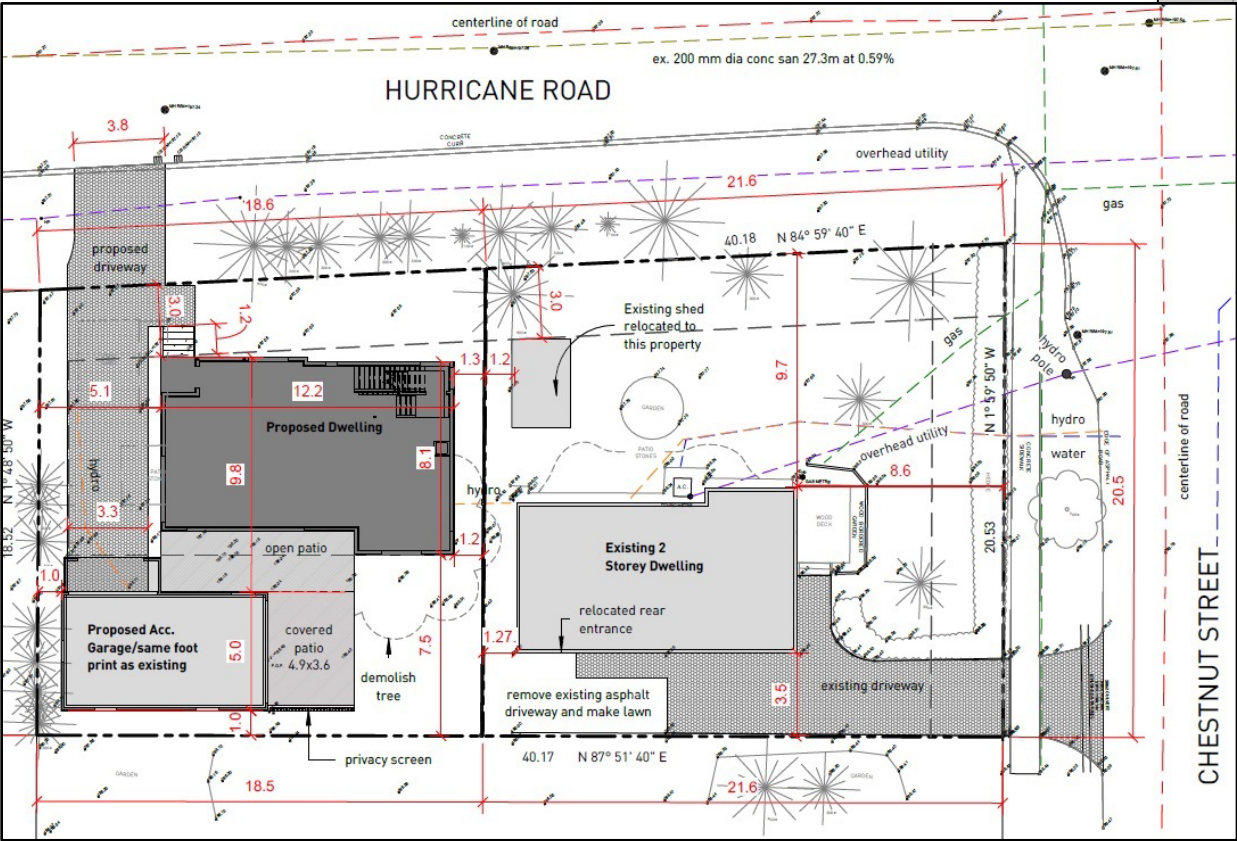
*“To encourage intensification and redevelopment within the Urban Area **specifically in and in proximity to the Downtowns.** (Policy A2.2.2)”*



*“To **encourage** the development of neighbourhoods which are compact, pedestrian-friendly and provide a mix of housing types. (Policy A2.3.2)”*

“To maintain existing infrastructure in a manner that is cost effective. (Policy A2.5.2)”

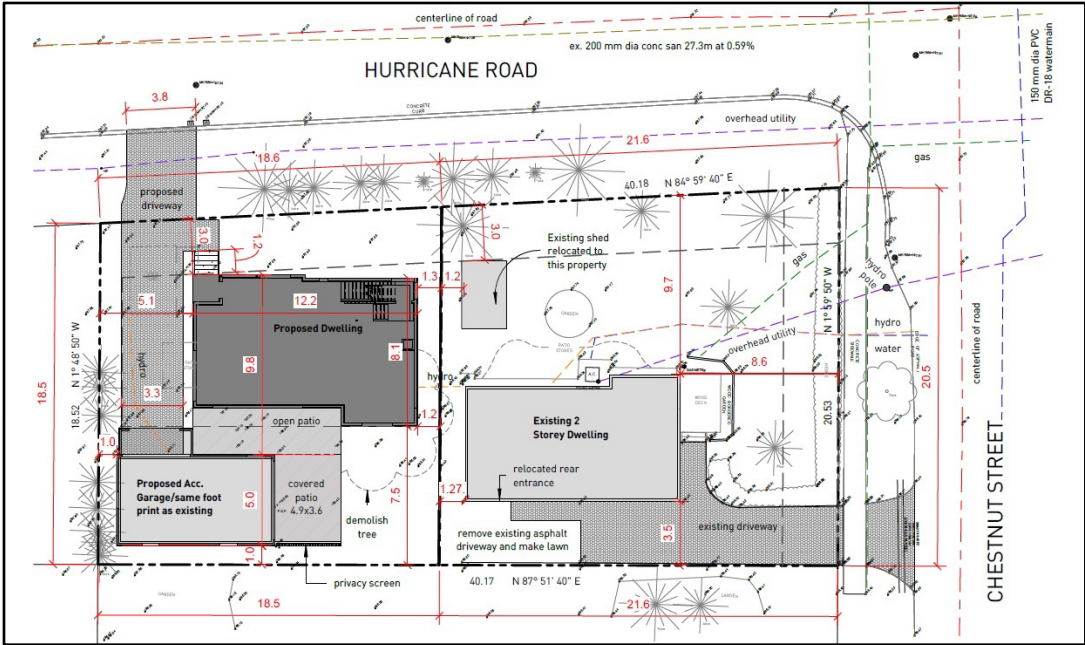
Pelham Zoning By-Law (2022)



Public Comments



Questions



FORE
STIG
EEN

David and Mary Jo Drago
 [REDACTED] Pelham St. N
 [REDACTED]

Committee of Adjustment
 Town of Pelham
 20 Pelham Town Square, P.O. Box 400
 Fonthill, ON, L0S 1E3

20 March 2023

Dear Secretary Treasurer,

Please accept this letter to register our objections to the application for consent under the file number B5/2023P concerning the subject parcel being Lot 17 on Plan 716 on the subject lands known municipally as 26 Chestnut St. in the Town of Pelham, and to register our objections to the application for minor variances under the file number A6/2023P and A7/2023P.

We are the owners of the dwelling and land municipally known as [REDACTED] Pelham St. N., situated directly west of the subject property, 26 Chestnut St. Our house was constructed in 1910 and has been our residence, our first and only home, since 1990.

This letter will detail our objections in two parts: Part A: Objections to the Application for Consent Under File Number B5/2023P and Part B: Objections to Application for Minor Variances Under File Number A6/2023P and File Number A7/2023P.

Our objections in each part will specifically address the four Statutory Tests as directed in Subsection 45(1) of the Planning Act which must be considered by The Town of Pelham Committee of Adjustment, and satisfied by the applicant, before an application for zoning variance can succeed.

Sincerely yours,

David and Mary Jo Drago

PART A: OPPOSITION TO APPLICATION FOR CONSENT

Is it minor in nature?

It is concluded that the application for consent involves variances of major nature that have a negative impact on the existing dwelling and lot at 26 Chestnut St. based on the following:

- The lot frontage, lot, yard setbacks, and lot coverage zoning requests are major and **diminish** the existing charm of this area. An examination of the neighbourhood plan shows uniform lots and yard spaces. The proposed lot and development clearly have **negative impacts** on the character and uniformity of this historic neighbourhood plan.



- The proposed lot and the existing development at 26 Chestnut St. demand numerous **reductions** and **increased maximums** to be considered viable, and **negatively impact** the integrity of the Town of Pelham by-laws.
- The proposed lot and dwelling demands **reduction** of adequate side yard setbacks and provides only one open grass space to manage stormwater runoff **negatively impacting** neighbouring properties, particularly the rear yard of 1585 Pelham St., situated directly west of the proposed development.

The development **negatively impacts** the owner's absolute, exclusive and undisturbed title to the limits of their lot lines.

- Reductions and reconfigurations to the lot and dwelling known as 26 Chestnut will provide **inadequate** rear yard space of merely 1.2 meters. There will be no egress from the dwelling to the rear yard space or the side yard space on the north side of the property.
- The proposed elimination of back yard space at 26 Chestnut St. requires the demolition of a magnificent shade tree. The interior side yard reductions of the proposed development risk destroying privacy cedars at the rear of 1585 Pelham St.

The *Planning Justification Brief* prepared for the applicant, demonstrates inherent contradictions in its presentation of the proposed lot and the reductions to 26 Chestnut St. The Planning Justification Brief speaks of the owner “*looking to redevelop the **under-utilized** rear yard*”(*Planning Justification Brief*, 4) of 26 Chestnut St. by eliminating its rear yard completely, then boasts of the desirability of such space in the justification for the new development by claiming that “*the reduced front yard setback will help preserve the more **desirable** rear yard.*” (*Planning Justification Brief*, 7)

It must be noted that the dwelling at 26 Chestnut St. is currently a **rental property**. The proposed reconfigurations to the unit and its lot would certainly test the tolerance of an owner-resident. No back yard amenities, no egress to open yard spaces.

It is concluded that the application for consent and the proposal for 2 Hurricane Rd are too large and that the application should be governed by the provisions that apply to Second Dwelling Units in the Town of Pelham based on the following:

- The application for consent seeks to **double** the permitted maximum lot coverage for accessory from the acceptable 10% as provided in the By-law.
- The site plan submitted with the application for consent depicts a development that is too large in size and scale for the proposed lot. The site plan shows that 45.5 percent of the lot will be utilized by structures – a dwelling unit and an accessory garage.
- The over-scale of the dwelling and lot plan are further complicated by the reduction of required lot area by 8 square meters.
- The proposed dwelling unit is to be 90 square meters and a maximum allowable height of 10.5 meters. The proposed building is out of scale for the lot size. The height of the proposed dwelling and its vertically oriented windows intrude upon the privacy of rear yard and amenity spaces at 1585 Pelham St. to the west and the south facing condominium properties to the north.
- The proposed redevelopment of 2 Chestnut St. completely eliminates its rear yard.
- The large-scale reductions at 2 Chestnut St. requires the removal of a mature shade tree which could otherwise be preserved.
- The application for consent seeks to reduce the front yard set back by 50 percent.

Does it maintain the general intent & purpose of the Zoning By-law?

It is concluded that the application for consent the number of variances requested do not maintain the general intent and purpose of the Zoning By-law based on the following:

- The number of variances requested demonstrate that the proposals for 2 Hurricane Rd. and 26 Chestnut St. can only be achieved by rewriting much of the Zoning By-law.
- The proposals for the proposed severance place 26 Chestnut St. in direct contravention of the Zoning By-laws.
- The proposals for side yard set backs intrude upon the property rights of the owners of 1585 Pelham St. Zoning By-laws are created to protect adjacent properties, not to threaten them.

- The scale and density of the proposed dwelling and its accessory unit seriously diminish the charm and historical nature of the existing neighbourhood. Too few open spaces create a dense, concrete landscape.

Does it maintain the general intent and purpose of the Town of Pelham Official Plan?

- The proposed development clearly perverts the Town of Pelham's interpretation of unutilized urban spaces. The writers of the Official Plan were not promoting eliminating rear yards throughout the urban neighbourhoods. The dwelling unit at 26 Chestnut St. is a rental unit. The rear yard is completely utilized by its tenants – featuring a shed, gazebo, propane fire place and sitting area. While the owner of 26 Chestnut St. utilizes a rear yard somewhere else, the tenants of 26 Chestnut St. fully utilize this private space.
- The proposed lot and dwelling unit are not in character with the existing neighbourhood. The elevation sketch does not conform with the visual nature of this area established in the early Twentieth Century.
- The proposed development does not comply with the Town of Pelham Intensification Plan. The *Official Plan Schedule A1* shows the lot to be outside of the intensification corridor.
- The neighbourhood plan shows an underutilized open space two properties directly south of the subject lands. Future development on this more appropriate space will satisfy the intensification needs in this urban area. Development at 26 Chestnut St. is **unnecessary. (see photo)**
- The proposed severance is not necessary to meet intensification goals in this neighbourhood. This immediate area has already experienced its limit of intensification with 4 new lots created at 3 Hurricane Rd., the creation of the Fonthill Yards, and new construction of semi-detached dwelling units at 1554 Pelham St. A more suitable, unused space currently exists on Chestnut St. and is likely to be developed in the future. The application for consent and its number of variances is not necessary.

PART B: OPPOSITION TO REQUEST FOR VARIANCE

Re: Section 6.16 (a) Parking Requirements

To permit 1 parking space absent of a private garage or carport whereas the by-law requires 1 parking space in a private garage or carport per dwelling unit

1. Is the variance minor?

The application for a variance of this magnitude calls into the question of whether or not this is a minor variance. Application for this variance directly contravenes *By-law 1136 Section 6.22 Reduction of Requirements* which states: “No person shall change the purpose for which any lot, building or structure is used or erect any new building or structure or addition to any existing building or structure **or sever any lands from any existing lot if the effect of such action is to cause the original, adjoining, remaining or new building, structure or lot to be in contravention of this Bylaw.**”

The application for consent places the existing structure, 26 Chestnut St., into contravention of an important existing By-law.

2. Would the granting of the variance result in a development that would be desirable for the appropriate development or use of the applicant’s land or building?

The site plan indicates a drastic reduction in the length of the driveway for the existing unit, 26 Chestnut St., leaving parking visible in the front/side portion of the unit with no carport or garage coverage. As by-laws are in place to prevent this type of planning, then it can be determined that the repercussions from this variance are **not desirable**.

The size of the structure and its accessory structures for the proposed lot call for drastic reductions to 26 Chestnut St. and is, therefore, not appropriate from a planning perspective.

3. Does the variance requested maintain the general intent and purpose of the zoning by-law?

Due to the lack of garage or carport, the variance requested implies a drastic **Reduction of Requirements**. It does not maintain the general intent and purpose of the zoning by-law 1136 Section 6.22. Clearly, by making the existing garage part of the proposed lot, the applicant is reducing the requirements of the existing lot, 26 Chestnut St., to meet the requirements for the proposed lot.

The application for this variance plays a dangerous “shell game” and is manipulating the general intent of the zoning by-law: if the applicant were to build an accessory structure (garage) at 26 Chestnut to satisfy the purpose of Section 6.16(a) of the by-law, the applicant would then require a variance of Section 6.1(d) Lot Coverage (Accessory Uses) for 26 Chestnut St., **in addition to** the variance sought for the proposed lot.

The application for this variance is manipulating the general intent of the zoning by-law. It is, in fact, insulting to the neighbours, where parking at 26 Chestnut was neatly concealed as per the by-law, but no longer will be if this variance is granted. The garage at 26 Chestnut St., by way of a zoning ruse will disappear.

As well, the application for this variance defies the purpose of this zoning by-law: all other new builds on existing lots, specifically 3 Hurricane Rd. and 1422 Pelham Street all have appropriate parking and garages. This begs the question “Why was this demanded of these applicants and not of this applicant?”

4. Does the variance requested maintain the general intent and purpose of the Official Plan (OP)?

The application for this variance seriously risks the integrity of the Town of Pelham Official Plan and its planning methods and guidelines. For the purpose of consistency, what is required of a new lot **must not minimize the requirements for an existing lot**; that is, what is required of a new lot must be consistently applied to all lots in the town. If a garage or carport is demanded by the zoning by-law for new builds on 3 Hurricane Rd. and 1440 Pelham St., then so must it be demanded for 26 Chestnut St. If this puts the unit at 26 Chestnut St. in jeopardy, **then it fails the test and the variance cannot be granted.**

The Town of Pelham's goals of density and intensification as set out in the Official Plan must not be achieved by a Reduction of Requirements as it risks reducing those requirements to nil and failing the Town's promise to "*respect the character of existing development and ensure that all applications for development are physically compatible with the character of the surrounding neighbourhood*" (Town of Pelham Official Plan A2.3.2) and "*to maintain and enhance the character and stability of existing and well-established residential neighbourhoods by ensuring that development and redevelopment is compatible with the scale and density of existing development.*" (Town of Pelham Official Plan A2.3.2)

Re: **14.2(e) Minimum Interior Side Yard**

To permit a minimum interior side yard setback of 1.2m whereas the by-law requires a minimum interior side yard setback of 1.5m

1. Is the variance minor?

A variance of side yard set back directly impacts the property line between the proposed lot and the back of our property at 1585 Pelham St. N.

The proposed driveway would parallel the property line for approximately 15 meters, at a proposed distance of 1.2 meters from the fence and privacy cedar trees separating the properties and only 1 meter from the proposed dwelling unit.

This should be considered a **major variant** in that it allows for very little natural green space for drainage (water) and no area to pile snow for winter driveway clearing.

The proposed site plan indicates an area of approximately 40 square meters of driveway that would be shoveled and piled against the existing cedar trees and fence. With the proposed 1 meter between driveway and dwelling unit, it is unlikely that snow would be piled against the dwelling unit. This will greatly test the resiliency of the cedar trees and the integrity of the fence.

Both the fence and the cedar trees are integral to the privacy of the **much-utilized back yard space at 1585 Pelham St.** The owners of 1585 Pelham St. are not in a position to replace a fence, nor would it be possible to replace the mature cedar trees that offer necessary privacy, greenery, and light and noise reduction.

2. Would the granting of the variance result in a development that would be desirable for the appropriate development or use of the applicant's land or building?

While the applicant deems this variance to be desirable, the issue here is that this variance infringes upon the reasonable setback and risks damage to a privacy fence and mature cedar trees. What used to be a rear yard, is proposed to become a side yard dominated by a driveway.

The driveway running along the property line is **NOT** desirable for the reasons mentioned previously.

It cannot be considered desirable to develop a property that jeopardizes the structures and greenery of the adjacent property, particularly, when these are absolutely vital to the privacy and esthetics of this well-established and well-maintained property.

3. Does the variance requested maintain the general intent and purpose of the zoning by-law?

The intent and purpose of a zoning by-law is to prescribe the front, rear and side yard setbacks, building size, height and use. It speaks to matters such as spacing, privacy, density, light and air and gives the neighbourhood its built form and character.

The built form and character of 1585 Pelham St. relies on its greenery and private spaces. A variance of side yard set backs violates the intent of the existing by-law, as by its very nature was put in place to **protect adjacent properties** from such encroachments and risks to privacy and esthetics.

The pure scale of the proposed dwelling unit, its driveway and patio spaces are driving this motion to grant encroachment. Only a smaller, more reasonable construction would eliminate the need for a request for variance.

Ultimately, the size, scale and density of the proposal for a new lot and new build are raising issues and contradicting the general intents and purposes of zoning by-laws of the Town of Pelham. The application for this variance begs the question: Why does the proposed development have to be of such size, scale and density that it violates the intent and purpose of the zoning by-law and risks damage to structures and trees of a neighbouring property?

It is the burden of the applicant to ensure, beyond doubt that adjacent structures and properties will be preserved. To suggest, as has been in the applicant's Planning Justification Brief, that *"both the retained and severed lot still will maintain adequate rear and side yard landscaped amenity areas, spatial separation for privacy & building maintenance, and open space to manage stormwater runoff"* (Justification Brief 6), does not meet this burden necessary for granting this variance. The site plan shows **NO side yard** to the west of the proposed dwelling and seeks to accommodate its scale and density at the expense of the adjacent property at 1585 Pelham St.

4. Does the variance requested maintain the general intent and purpose of the Official Plan (OP)?

The Town of Pelham Official Plan specifically states: *The primary purpose of the Official Plan is to provide the basis for managing growth that will support and emphasize the Town's unique character, diversity, civic identity, rural lifestyle and heritage features and to do so in a way that has a positive impact on the quality of life and health for the citizens who live and work in Pelham. The Official Plan is the primary planning document that will direct the actions of the Town and shape growth and development and on this basis, this Plan establishes a vision for the future land use structure of the Town. (Town of Pelham Official Plan, A1 THE COMMUNITY VISION)*

It must be emphasized that the spirit of the Official Plan is to emphasize the town's *"heritage features and to do so in a way that has a positive impact on the quality of life...for the citizens who live...in Pelham."* The lots created in the area bordered by Broad St., Pelham St, Hurricane Rd and Chestnut St, are features of the original D'veverado Plan created before the turn of the 20th Century. The dwellings at 1585 Pelham St and 26 Chestnut St. date back to circa 1910. The reconfiguration of 26 Chestnut St. casts a negative on the historical features of what was once the Village of Fonthill.

Furthermore, the Official Plan seeks *"To respect the character of existing development and ensure that all applications for development are physically compatible with the character of the surrounding neighbourhood."* (Town of Pelham Official Plan A2.3.2). The reduction of side yard and back yard setbacks in development proposed at 26 Chestnut St. does not respect *"the character of existing development"* and can easily be deemed **incompatible** *"with the character of the surrounding neighbourhood."*

Re: Section 6.1 (d) Lot Coverage (Accessory Uses)

To permit a maximum of coverage of 20% of the lot area for all accessory buildings whereas the by-law allows a maximum lot coverage of 10% of the lot area for all accessory buildings.

1. Is the variance minor?

This variance is considered to be **major** in that it requests a **doubling** of the maximum coverage of the lot area for all accessory buildings.

2. Would the granting of the variance result in a development that would be desirable for the appropriate development or use of the applicant's land or building?

While the Town of Pelham planning report suggests that the retention of the existing garage on the proposed lot is desirable, the report does not make reference to the fact that with the retention of the existing garage and the size and scale of the proposed dwelling unit, **45.5 percent** of the proposed lot would be occupied by physical structures.

The site plan suggests that the remaining 44.6 percent of the lot space would be mostly driveway and hard surfaced patio areas. Very little open green space is retained as per the site plan. This cannot be deemed desirable or appropriate development from an environment and drainage perspective. The only greenspace left on the proposed lot is to the north of the proposed dwelling unit and the request 1.2 meter strips bordering the property.

Clearly, the size and scale of the proposed dwelling unit, the lack of open green space and the accessory building utilizing 19.2 percent of the proposed building lot pose real drainage concerns for the site itself and the neighbouring properties, **including the proposed 1.27 meter backyard** of 26 Chestnut St.

3. Does the variance requested maintain the general intent and purpose of the zoning by-law?

The density of the proposed lot and dwelling, where structures utilize nearly half of lot space, requires a **major variance** which **doubles** the maximum coverage for all accessory buildings. The granting of a major variance to an important By-law would set a concerning precedence, whereby current and future lot owners could seek application to dominate their properties with undesirable out buildings. If the Town of Pelham is to **double the maximums** set forth in this section of By-law 1136, what other maximums could be doubled as well.

4. Does the variance requested maintain the general intent and purpose of the Official Plan (OP)?

The Town of Pelham Official Plan has, as its goal, to “*respect the character of existing development and ensure that all applications for development are physically compatible with the character of the surrounding neighbourhood*” (Town of Pelham Official Plan A2.3.2) and “*to maintain and enhance the character and stability of existing and well-established residential neighbourhoods by ensuring that development and redevelopment is compatible with the scale and density of existing development.*” (Town of Pelham Official Plan A2.3.2)

Physical compatibility is in question in this application. Here, the developer seeks to “reduce requirements” on the one hand, and to “double the maximums” on the other hand. At what point does one realize that the developer’s vision is **incompatible in scale and density** with respect to the proposed lot itself, and the character of existing development”?

Reducing requirements and doubling maximums risk the creation of landscapes that are “*physically incompatible*” with the character of surrounding neighbourhoods and “*destabilize the character*” of existing and well-established neighbourhoods” – namely, the neighbourhoods of the Old Village of Fonthill, established during the late Nineteenth and early Twentieth Century.

David and Mary Jo Drago
[REDACTED] Pelham St. N
Fonthill, ON L0S 1E3

Committee of Adjustment
Town of Pelham
20 Pelham Town Square, P.O. Box 400
Fonthill, ON, L0S 1E3

17 April 2023

Dear Secretary Treasurer

Please accept this letter as an addendum to my previous letter of opposition to the Application for Consent at 26 Chestnut St.

In light of the implementation of the new Comprehensive Zoning By-law (4481) the following is to be considered by the Committee of Adjustment. Previous arguments are still to be considered; even though many no longer apply, the overall intent of the argument remains.

On 3 April 2023, "The Ontario Land Tribunal approved the order with the result that the Comprehensive Zoning By-law is deemed to have come into force on August 30, 2022." Furthermore, "the Comprehensive Zoning By-law regulates the use of land throughout the Town of Pelham in accordance with Section 34 of the *Planning Act*. The Comprehensive Zoning By-law has been updated to conform to the Town Official Plan, Region of Niagara Official Plan and Provincial legislation. The effect of the Comprehensive Zoning By-law will be improved development parameters that help create a more attractive, prosperous and livable community. (<https://engagingpelham.ca/comprehensive-zoning-by-law-review>).

Be it noted, that in the Town of Pelham press release dated 4 April 2023, director of community planning and development Barbara Wiens stated the following: "With fundamental shifts in the focus of the provincial, regional, and local policy framework since the previous 1987 zoning by-law, Pelham has worked with public consultation, staff and Council to align the Comprehensive Zoning By-law with the current planning policy framework at all levels of government." (<https://engagingpelham.ca/comprehensive-zoning-by-law-review>)

It is clear, therefore, that after one year of serious deliberation and review, public consultation and consultation with all levels of government the Town of Pelham adopted its new Comprehensive Zoning By-law as one that conforms to the Town Official Plan, the Region of Niagara Official Plan and Provincial legislation.

Concerning the Residential R2 Zone

The new Comprehensive Zoning By-law (4481) sub-section 6.2 sets the following Zone Requirements for Single Detached Dwellings:

Minimum Lot Frontage 12.0m

Minimum Lot Area 360m²

Minimum Front Yard 3.0m except 6.0m where there is an attached garage

Maximum Front Yard 6.0m Minimum Side Yard 1.2m

Minimum Corner Side Yard 3.0m

Minimum Rear Yard 7.5m

It is argued, therefore, that these are the requirements that “conform to the Town Official Plan, the Region of Niagara Official Plan and Provincial legislation.” The Town of Pelham has created these requirements to “regulate the use of land, buildings and structures in the Town of Pelham.”

These requirements allow for reasonable development and are implemented to allow for reasonable density in urban areas as determined by the Town of Pelham, Niagara Region and Provincial legislation. The requirements are **minimums**, and, as such, should not be reduced any further. To seek further reduction of these requirement precludes that a proposed lot is **NOT** feasible for consent or building.

Concerning the Application of the Zoning By-law

The new Comprehensive Zoning By-law (4481) is to be applied so that “No person, other than a public authority, shall reduce any lot by conveyance or otherwise so that it does not meet the requirements of this By-law, or if it did not meet the requirements initially, that it is further from meeting them.” [*Town of Pelham Zoning By-law 4481, 1.3(b)*]

It is argued that this direction in the By-law conforms “to the Town Official Plan, the Region of Niagara Official Plan and Provincial legislation” and that the Town of Pelham, therefore, opposes any development that reduces another lot and places that existing lot in non-compliance of the Town of Pelham’s zoning By-laws.

The application of the new Comprehensive Zoning By-law (4481) also dictates that “Except as provided otherwise within a specific zone, accessory buildings and structures not attached to the main building shall:

c) Not be located in any required front yard or the **required exterior side yard**;

e) Have a total lot coverage for all accessory buildings **of not more than 10% in any Residential Zone** and not more than 5% in any other Zone and the maximum lot coverage for all buildings shall not exceed the maximum lot coverage of the zoning category in which the property is located.”

It is argued that this direction in the Comprehensive Zoning By-law (4481) conforms “to the Town Official Plan, the Region of Niagara Official Plan and Provincial legislation” and that the Town of Pelham opposes lots where garages, sheds and other outbuildings occupy a significant portion, **more than 10%**, of the lot. As this exists in the new Comprehensive Zoning By-law (4481), it is also a part of the greater vision of the Official Plan of the Town of Pelham, the Niagara Region and the Province of Ontario.

Concerning File Number: A7/2023P and File Number A6/2023P

As of 3 April 2023, the Application for Consent and Application for Minor Variance at the Subject Land known municipally as 26 Chestnut St. the new Comprehensive Zoning By-law (4481) no longer requires minor variances to heard concerning the following:

Section 6.16(a) “Parking Requirements -NO LONGER REQUIRED

Section 6.1(b) “Location Accessory Uses – NO LONGER REQUIRED

Section 14.2 (d) “Minimum Front Yard - NO LONGER REQUIRED

Section 14.2(e) “Minimum Interior Side Yard – NO LONGER REUIRED

The new Comprehensive Zoning By-law (4481) deems the proposal by the applicant to be within the parameters of the By-law in these four areas. Minor variance is no longer required and the applicant can be deemed in conformity “to the Town Official Plan, the Region of Niagara Official Plan and Provincial legislation.”

As the four former items are now in compliance with the new Comprehensive Zoning By-law, **attention must be directed to the three main areas** in the Application for Consent and Variance that do NOT comply with the new Comprehensive Zoning By-law and are to be considered NON-CONFORMING “to the Town Official Plan, the Region of Niagara Official Plan and Provincial legislation.” The areas of dispute include the following:

1. The applicant’s request to permit a minimum lot area of 350sm whereas the by-law requires a minimum lot area of 360sm
2. The applicant’s request to permit a maximum lot coverage of 20% of the lot area for all accessory buildings whereas the by-law allows a maximum lot coverage of 10% of the lot area for all accessory buildings.
3. The applicant’s request to permit a minimum rear yard setback of 1.2m whereas the by-law requires a minimum rear yard set back of 7.5m.

These are **major** variances and if granted completely eradicate the new Comprehensive Zoning By-law (4481). The sub-sections concerning **MINIMUM LOT AREA, LOT COVERAGE (ACCESSORY USES) and MINIMUM REAR YARD** are the few sub-sections of the former Zoning By-law governing Residential R2 areas not to have been reduced after thorough review,

public consultation and consultation with all levels of government. They are, in a sense, sacrosanct: by their very nature, they are too important, too valuable to be interfered with or altered.

Please refer to previously submitted arguments proving that the application for consent and variance does not pass the Four Tests and, therefore, cannot be granted.

As well, the site plan provided by the applicant shows the relocation of a shed, existing in the back yard of 26 Chestnut, to be relocated to the “exterior side yard” of the reduced property at 26 Chestnut. An exterior side yard is defined as “a side yard immediately adjoining a public street.” The visual illustration provided in the new Comprehensive By-law (4481) clearly defines this.

It is argued that the applicant has mistaken this for an “interior side yard.” The applicant’s proposed placement of the existing shed, as per the site plan, is in violation of the Comprehensive Zoning By-law (4481) and must require application for variance for proposed location. To then place the existing shed within the “interior side yard” would further diminish the property to the south and clearly diminish the patio space at the proposed development. So, there is no place on 26 Chestnut St. to accommodate the shed: not the exterior side yard, not the interior side yard, nor the front yard. This is the consequence of reducing back yard requirements.

Neither the Town of Pelham, the Niagara Region nor the Province of Ontario envision urban zones with no back yards.

Neither the Town of Pelham, the Niagara Region nor the Province of Ontario envision urban zones with lots covered by sheds, garages and other outbuildings.

Neither the Town of Pelham, the Niagara Region nor the Province of Ontario envision urban zones that haphazardly reduce minimum lot sizes to promote density at the expense of character and uniformity.

Neither the Town of Pelham, the Niagara Region nor the Province of Ontario envision urban zones that allow lots to be created while compromising the conformity of an existing lot.

To allow such is to set precedent that will become a banquet feast for residents and developers throughout the town. It will have serious repercussions concerning the character and beauty of the established urban areas in the Town of Pelham.

To quote Barbara Wiens, the new Comprehensive Zoning By-law is designed to “help create a more attractive, prosperous and livable community.”

It is for these reasons, and the reasons previously submitted, that consent and variance cannot be granted at 26 Chestnut St.

Sincerely yours,

David and Mary Jo Drago

From: [REDACTED]
To: [Sarah Leach](#)
Subject: FW: 26 chestnut st.
Date: Monday, March 20, 2023 11:29:40 AM

----- Forwarded Message

From: Gary [REDACTED]
Date: Mon, 20 Mar 2023 11:28:12 -0400
To: <JWINK@PELHAM.CA>
Conversation: 26 chestnut st.
Subject: FW: 26 chestnut st.

----- Forwarded Message

From: Gary [REDACTED]
Date: Mon, 20 Mar 2023 11:24:40 -0400
To: <mjunkin@pelham.ca>
Conversation: 26 chestnut st.
Subject: 26 chestnut st.

To TOWN COUNCIL

THIS IS INTO THE PERMIT FOR 26 CHESTNUT ST.

I AND MY FELLOW NEIGHBOURS STRONGLY DISAGREE WITH THESE MINOR VARIANCES

HERE IS A LIST WHY FIRST 8 VARIANCES IS A LITTLE TOO MANY

- 1. IT IS GOING TO TO CLOSE TO THE ROAD**
- 2. GOING TO BE TO CLOSE TO TWO PROPERTIES ON CHESTNUT AND NORTH PELHAM**
- 3. THE GARAGE AND COVERED PATIO IS ONLY 1 METER FROM PROPERTY LINE.**
- 4. NOT ENOUGH GREEN SPACE.**
- 5. NO PARKING ON 26 CHESTNUT ST.**
- 6. CUTTING DOWN 3 TREES ON PROPERTY.**
- 7. CUTTING DOWN ATLEAST 8 TREES ON HURRICANE RD.**
- 8. LOOKS LIKE 1 OR MAYBE 2 HYDRO POLES GOT TO BE MOVED.**
- 9. NO DRIANAGE ON HURRICANE RD. FOR RUN OFF.**
- 10. HERE WE GO AGAIN A NEW ROAD TO BE TORNEN UP AGAIN FOR LINES**
- 11. I KNOW THEY PATCH BUT NEVER THE SAME.**

**IF THE COMMITTEE AND COUNCIL AGREE TO THIS THEY ARE OPENING A
CAN OF**

**WORMS FOR OTHER CONTRATORS AND PEOPLE TO DO THE SAME YOU
DO FOR ONE**

YOU GOT TO DO FOR ALL I HOPE YOU GUYS TURN THIS DOWN

THANK YOU GARY BIRCH [REDACTED] CHESTNUT ST. [REDACTED] -

COPY TO B ECKHARDT ,J. WINK,S. LEACH

----- End of Forwarded Message

----- End of Forwarded Message

Regarding 26 Chestnut St.

In response to the proposed variances:

To ask for 8 variances is completely unreasonable. Some of which are in no way minor but very major.

Section 14.2(d) "Minimum Front Yard" - to permit a minimum front yard setback of 3m whereas the by-law requires a minimum front yard setback of 6.5m

This is less than half of the permitted minimum setback. Hardly minor.

Section 6.1 (d) "Lot Coverage (Accessory Uses)" - to permit a maximum lot coverage of 20% of the lot area for all accessory building whereas the by-law allows a maximum lot coverage of 10% of the lot area for all accessory buildings

This section is asking that DOUBLE the lot coverage be permitted.

Section 14.2(g) - "Minimum Rear Yard" - to permit a minimum rear yard setback of 1.2m whereas the by-law requires a minimum yard setback of 7.5m

Again, 1.2m is an extreme discrepancy from 7.5m

We as residents and homeowners of the immediate area reject this proposal. Not only are 8 variances being called for, it will directly impact the character and enjoyment of the neighbourhood.

According to the Town of Pelham Official Plan:

Schedule A2.2 GROWTH AND SETTLEMENT States:

A2.1.2: The Goal: "To make planning decisions that avoids negative environmental impacts as a first priority, with secondary priority given to mitigation of negative impacts."

A2.3 URBAN CHARACTER States:

A2.3.1 The Goal: "It is a goal of this Plan to protect and enhance the character of the existing Urban Areas."

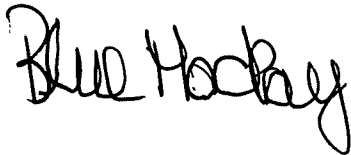
A2.3.2 "To respect the character of existing development and ensure that all applications for development are physically compatible with the character of the surrounding neighbourhood."

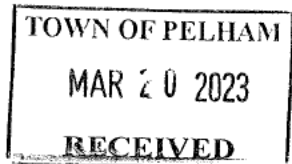
A2.3.2 "To maintain and enhance the character and stability of existing and well-established residential neighbourhoods by ensuring that development and redevelopment is compatible with the scale and density of existing development."

None of these Goals or Plans are being met in this proposal.

We appeal to you, Pelham Council. You were elected by the community to uphold the by-laws, zoning and Plans. This application is not just asking for one small variance but 8! The cutting down of trees and placement of such a large house on such a small lot is not characteristic of our neighbourhood. Neither is the proposed proximity between houses. We reject this proposal.

Blue Mackay

A handwritten signature in black ink that reads "Blue Mackay". The signature is written in a cursive, flowing style with a large initial 'B'.



In response to the proposed variances for 26 Chestnut St. Fonthill,

File Number: B5/2023P Lot 17 on Plan 716

I Cheryl Lapalme who resides at

████ Chestnut St. in Fonthill absolutely decline the proposed variances and new build on 26 Chestnut St. Fonthill.

I have lived here for eight years.

When I moved here the street was quiet and quaint. There have been many changes in Fonthill, Pelham in the past eight years. I understand the need for change as the town continues to grow and evolve.

This, however, is totally unnecessary and in my opinion, is self-serving.

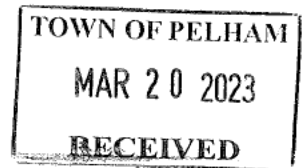
There not enough space to build a house on the proposed lot. Not to mention the removal of all the trees and wild life. This new build encroaches close to my property line. It is disruptive not to mention many other concerns.

Attached is a list of my concerns:

- Too much traffic on Hurricane Rd.
This is an accident waiting to happen.
- Parked cars all along Hurricane Rd and in front of our houses for visitors.
- The new propose garage to be rebuilt is too close to the property line legally it should be 1.2 m from that space.
- 8 proposed variances?? Too many to accommodate.
- How is this respecting the character and stability of existing and well-established residential neighbourhood.
- If we accept this proposal, it sets the bar for future developments.
- Not enough drainage on Hurricane Rd.
- Removal of a telephone pole.

Please consider my concerns for this proposal.

Cheryl Lapalme
████ Chestnut St.
Fonthill, On
L0S 1E3
████



To the Secretary Treasurer:

To Whom it may Concern:

We are writing in response to File# B5/2023P and Files A62023P, A7/2023P the subject land of 26 Chestnut St. Pelham, Lot 17 on Plan 716.

We the undersigned object to the variances proposed for a second Dwelling on the lot of 26 Chestnut St., which is not big enough for two dwellings within the zoning bylaws in place. These bylaws are here for reasons such as these, so houses do not get to close to each other which can cause problems with disputes between neighbours down the road. Not to mention fire and storm damages. We liked our quiet neighbourhood before all these changes, now we put up with parked cars on both side of the roads on streets to narrow to drive through. Speeding cars all hour's day and night. We say no to these proposed variances and changes to made.

Robert and Victoria McCauley

████ Chestnut St. Pelham

Robert, E, McCauley.
March, 17 2023

Victoria McCauley
March 17, 2023



**Community Planning and Development Department
Committee of Adjustment**

Monday, May 01, 2023

Minor Variance Application: A10-2023P

Municipal Address: 2761 Maple Street

Legal Description: Part of Lot 15, Concession 1; Part 22, Plan 59R-6462

Roll number:

Nature and Extent of Relief/ Permission Applied for:

The subject land is located on the east side of Maple Street, south of Twenty Road, legally described above, and known locally as 2761 Maple Street in the Town of Pelham.

The subject land is zoned Specialty Agriculture (SA) and Environmental Protection One (EP-1) in accordance with Town of Pelham Zoning By-law 4481(2022). Application is made to construct a single detached dwelling with an attached garage, and seeks for relief from:

- a. **Section 5.2.3 "Minimum Interior Side Yard"** – to permit a southerly interior side yard setback of 3.0m whereas the bylaw requires 8.0m.

Applicable Planning Policies:

Planning Act, R.S.O. 1990, c.P.13

Section 45 (1) states that the Committee of Adjustment may authorize minor variance provisions of the Zoning By-law, in respect of the land, as in its opinion is (1) minor in nature, (2) objectively desirable for the appropriate development or use of the land, and the general intent and purpose of the (3) Zoning By-law and (4) Official Plan are maintained (the "Four Tests"). A discussion of the four tests is included below.

Provincial Policy Statement (PPS) (2020)

Provincial Policy Statement (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.

Section 3 of the *Planning Act* requires that decisions affecting planning matters "shall

be consistent with” policy statements issued under the *Act*. The PPS recognizes the diversity of Ontario and that local context is important. Policies are outcome-oriented, and some policies provide flexibility provided that provincial interests are upheld. PPS policies represent minimum standards.

The Provincial Policy Statement (PPS) designates the subject land within the ‘Prime Agricultural Area’ and more specifically within a Specialty Crop Area. The permitted uses (among others) include: agricultural / agricultural related uses, limited residential development and home occupations. ‘Prime Agricultural Areas’ are defined as including associated Canada Land Inventory Class 4-7 lands as well as ‘Prime Agricultural Lands’ (Class 1-3 lands).

Policy 1.1.4.1 states that healthy, viable *rural areas* should be supported by, among other things, promoting regeneration, promoting diversification of the economic base in *prime agricultural areas*, in accordance with policy 2.3 and conserving biodiversity.

The proposed minor variance will permit the development of a single detached dwelling and attached garage on an existing lot of record and is in keeping with the policies of the PPS.

Greenbelt Plan, 2017

The Greenbelt Plan, together with the Growth Plan builds on the Provincial Policy Statement to establish a land use planning framework for the Greater Golden Horseshoe. The subject lands are designated as a ‘Protected Countryside’ according to Schedule 1 of the Greenbelt Plan.

Policy 4.5 2 permits single detached dwellings on existing lots of record, provided they were zoned for such as of the date the Greenbelt Plan came into force.

The proposed single detached dwelling and attached garage are consistent with the policies of the Growth Plan (see below) and provides for limited residential infill development on private services.

Growth Plan for the Greater Golden Horseshoe (2019)

This Plan informs decision-making regarding growth management and environmental protection in the Greater Golden Horseshoe (GGH). All decisions made after May 16, 2019, that affect a planning matter will conform with this Growth Plan, subject to any legislative or regulatory provisions providing otherwise. The policies of this Plan take precedence over the PPS to the extent of any conflict.

The subject lands are located within a ‘Prime Agricultural Area’ according to the Growth Plan.

Policy 4.2.2.3 a) states that (among other things), within the *Natural Heritage System* new development or site alteration will demonstrate that there are no negative impacts on key natural heritage features, key hydrologic features or their

functions.

Development is defined as the creation of a new lot, a change in land use, or the construction of buildings requiring approval under the *Planning Act*.

The proposed zoning relief would permit the creation of new single detached dwelling and attached garage on an existing lot of record and is in keeping with the policies of the Growth Plan.

Region of Niagara Official Plan

The NOP designates the lands as within the Specialty Crop Area and a portion of the parcel is identified as Hydrologically Sensitive Area containing a Highly Vulnerable Aquifer (HVA), which is defined as a key hydrologic area. Policy 3.1.10 of the NOP does not permit development or site alteration unless it can demonstrate that it will not have a negative impact on the quantity or quality of water, hydrologic function, interaction and linkage between key hydrologic areas, natural hydrologic characteristics of a watercourse, natural drainage systems and flooding or erosion. The Niagara Peninsula Conservation Authority buffer provided in the concept plan appears to be relatively consistent with the coverage of this key hydrologic area, however a portion of the proposed septic system intercepts with the HVA.

Schedule K of the NOP identifies the subject lands as being in an Area of Archaeological Potential. The Applicant has provided a Stage 1 and 2 Archaeological Assessment Report which concluded that there were no archaeological resources identified on the property and that no further assessment was required.

Finally, the subject property is adjacent to portions of the Region's Core Natural Heritage System (CNHS), consisting of Type 1 (Critical) Fish Habitat. Provincial and Regional policies require the completion of an Environmental Impact Study (EIS) to assess potential impacts that may result from the proposed development. Environmental Planning Staff have visited the property and determined that due to the scope, nature, and location of the proposed development, specifically the distance of the development footprint to the adjacent feature, Staff were supportive of waiving the EIS requirement in favour of a Landscape Plan in this instance.

Town Staff is satisfied that the proposed development is in keeping with the purpose and intent of the Region of Niagara Official Plan.

Town of Pelham Official Plan (2014)

The Town of Pelham Official Plan is the primary planning document that will direct the actions of the Town and shape growth that will support and emphasize Pelham's unique character, diversity, cultural heritage and protect natural heritage features.

The local Official Plan designates the subject land as 'Specialty Agricultural.' Section B2.2.2 outlines the permitted uses and intentions of this designation, which are

supportive of the development of low-density residential uses as part of the agricultural community.

Policy E1.5 states that in addition to the *Planning Act's four tests* considered in determining whether to grant a minor variance, applicants should be prepared to demonstrate a need for the requested relief on the basis that the subject zoning provision is not warranted in a particular circumstance, causes undue hardship, or is otherwise impossible to comply with.

Although the *Planning Act*, and Provincial planning case law does not recognize the demonstration of 'need' or 'hardship' as a *fifth test* of a minor variance, the local Official Plan raises this matter.

Town Planning staff are of the opinion the proposed minor variance conforms to the local Official Plan as it helps enable appropriate development within the speciality agricultural area. The site has not been used for agricultural purposes for some time and is surrounded by other low-density development. Staff are satisfied that the proposal is in keeping with the general intent of the Official Plan.

Town of Pelham Zoning By-law No. 4481(2022), as amended

The subject lands are zoned Speciality Agriculture (SA) and Environmental Protection 1 (EP-1) in accordance with Pelham Zoning By-law 4481(2022), as amended.

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

Minor Variance Test	Test Response Explanation
The variance is minor in nature.	<p>Yes, the variance is minor in nature. There is no precise definition or mathematical equation as to what constitutes minor. "Minor" is a relative term to be interpreted in the based on the individual circumstance of each application and lends itself to the degree of impact. The variance requests a reduction to 3.0 metres from the required 8.0 metres.</p> <p>Given the orientation, size of the site, and location of natural heritage features, the reduced side yard setback has been requested to permit the construction of a single detached dwelling and attached garage outside of the NPCA buffer area. The site maintains a generous amenity area and side yard separation between the abutting property. It is the opinion of staff that the impact of reducing the side yard setback to 3.0m would be minimal and the variance is considered minor in nature.</p>

The variance is desirable for the development or use of the land.	<p>Yes. The requested variance is considered to be desirable for the appropriate development or use of the land. The requested variance is not anticipated to have a significant negative impact on the streetscape or adjacent properties. The application proposes a built form that is similar in character to the surrounding properties and utilizes the developable area identified ensuring the natural heritage features on the site remain protected.</p> <p>As such, staff are of the opinion that the variance is desirable for the development or use of the land.</p>
The variance maintains the general intent and purpose of the Zoning By-law.	<p>Yes, the variance maintains the general intent and purpose of the Zoning By-law. The intent of the interior side yard setback is to ensure separation distance between abutting residential uses and to ensure there remains adequate amenity area for the lot in question. The property will maintain a generous side yard amenity space.</p> <p>As such, staff are of the opinion the maintain maintains the intent and purpose of the Zoning By-law.</p>
The variance maintains the general intent and purpose of the Official Plan.	<p>Yes, the variance maintains the general intent and purpose of the Official Plan. Staff are of the opinion that the requested variance is not considered to have significant impacts within the context of the Official Plan. The Speciality Agriculture designation is supportive of the development of low-density residential uses as part of the agricultural community. The reduction in the side yard setback will permit the development to occur outside of any natural heritage features on the site.</p> <p>As such, staff are of the opinion the proposed variance maintains the general intent and purpose of the Official Plan.</p>

Agency and Public Comments:

On April 5, 2023, a revised 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.

This revised notice recognizes the April 3, 2023, decision of the Ontario Land Tribunal which ordered that the new Town of Pelham Comprehensive Zoning By-law is now in full force and effect save and except as it applies to site specific lands identified on Appendix 1 of the decision and is deemed to have come into force on the day the ZBL was passed, namely August 30, 2022.

To date, the following comments have been received:

- Building Division
 - A building permit will be required for the proposed single detached dwelling and attached garage
- Public Works Department
 - The applicant will need to obtain a Driveway Entrance and Culvert Permit from the Public Works Department for the construction of all new or modification of existing driveways or entrances. Installation and/or modification of all entrances shall be completed in accordance with Town Standards; and
 - 2755 Maple Street cannot use the driveway of 2761 Maple Street for access
- Region of Niagara
 - No objections to the proposed variance as it is consistent with the PPS and conforms to Provincial and Regional Plans; and
 - Regional Staff will need a copy of the Ministry of Citizenship and Multiculturalism (MCM) acknowledgement letter advising of the entry of the archaeological assessment report in the Provincial Registry prior to the issuance of a Building Permit
- Niagara Peninsula Conservation Authority
 - No objections to the proposed variance

No public comments were received at the time of writing this report.

Planning Staff Comments:

Based on the analysis given in above sections, staff is of the opinion the proposal:

- makes efficient use of the land;
- will not result in overbuilding of the property;
- will not alter the view, sightlines or personal enjoyment of the subject property or any neighbouring properties; and,
- should not negatively impact the surrounding neighbourhood with regards to land use incompatibility, traffic, privacy and storm water runoff.

The requested variance is minor in nature, conforms to the general policies and intent of both the Official Plan and Zoning By-law and is appropriate for the development and use of the land.

Planning Staff Recommendation:

Planning staff recommend that minor variance file A10/2023P **be approved** subject to the following condition(s):

THAT the applicant

- Apply for and receive a building permit for the construction of the single detached dwelling and attached garage.
- Obtain a Driveway Entrance and Culvert Permit from the Public Works Department for the construction of all new or modification of existing driveways or entrances.
- Submit an acknowledgement letter advising of the entry of the archaeological assessment report in the Provincial Registry from the Ministry of Citizenship and Multiculturalism (MCM) to the satisfaction of the Region of Niagara.

Prepared and Submitted by:

Lindsay Richardson, MCIP, RPP
Policy Planner

Recommended by:

Barbara Wiens, MCIP, RPP
Director of Community Planning and Development Department

Memo

To: Sarah Leach, Deputy Clerk

CC: Jason Marr, Director of Public Works; Barb Wiens, Director of Planning and Development; Derek Young, Manager of Engineering; Nicholas Palomba, Engineering Technologist; Lucas Smith, Engineering Technologist

From: Gimuel Ledesma, Engineering Technologist

Date: April 17, 2023

File No: A10/2023P

RE: Minor Variance – 2761 Maple Street

The Public Works Department has reviewed the submitted documentation regarding the proposed minor variance of 2761 Maple Street. The subject land is zoned SA (Specialty Agricultural) and EP1 (Environmental Protection One) in accordance with Pelham Zoning By-law 4481(2022). Application is made for relief, to construct a single detached dwelling with attached garage, from:

Section 5.2.3 – to permit a southerly interior side yard of 3.0 metres whereas the by-law requires 8.0 metres.

Public Works offer the following comments:

- The applicant obtains a Driveway Entrance and Culvert Permit from the Public Works department for the construction of all new or modification of existing driveways or entrances. Installation and/or modification of all entrances shall be completed in accordance with Town Standards
- 2755 Maple Street cannot use the driveway of 2761 Maple Street

To: Sarah Leach

Cc: Lindsay Richardson

From: Alex Foisey, Building Intake/Zoning Technician

Date: April 19th, 2023

Subject: Building Comments on Applications to the Committee of Adjustment for
2671 Maple Avenue, Pelham

File Number: A10/2023P

Comment:

- A building permit will be required for the proposed house & garage

Respectfully,
Alex Foisey

Planning and Development Services

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7
(905) 980-6000 Toll-free: 1-800-263-7215

Via Email

March 20, 2023

Region File: D.18.06.ZA-23-0023

Shannon Larocque, MCIP, RPP
Senior Planner
Town of Pelham
20 Pelham Town Square, P.O. Box 400
Fonthill, ON L0S 1E0

Dear Ms. Larocque

**Re: Regional and Provincial Review Comments
Zoning By-law Amendment
Town File: AM-01-2023
Applicant: Jeffery Ross Miller and Sara Nicole Miller
Agent: Culture Developments Inc.
2761 Maple Street
Town of Pelham**

Regional Planning and Development Services staff have reviewed the information that was circulated with the Zoning By-law Amendment for the lands located at 2761 Maple Street in the Town of Pelham ("subject property").

The Applicant is proposing to rezone a portion of the subject lands from Hazard (H) to Agriculture (A) with site specific exceptions to allow for the construction of a single detached dwelling on the property. Through site specific regulations the Applicant requests relief from Zoning By-law No. 1136 (1987) to permit a minimum side yard setback for 3.04 metres from the south lot line where a 9 metres side yard setback is required.

A pre-consultation meeting was held for the Application on October 20, 2022 with Town and Regional staff in attendance. The Region recognizes that the Applicant has provided all of the required studies for Region review that were requested at the pre-consultation meeting. Regional staff note that since the pre-consultation meeting, the new *Niagara Official Plan, 2022* (NOP) came into effect on November 4, 2022. As such, the following comments reflect the new NOP policies.

Provincial and Regional Policies

According to the *Provincial Policy Statement, 2020* (PPS), the subject property is located within a Prime Agricultural Area, and more specifically within a Specialty Crop

Area. The subject property is designated as Protected Countryside Area within the *Greenbelt Plan, 2017* and Prime Agricultural Area within *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020* (Growth Plan). The NOP designates the lands as within the Specialty Crop Area. Provincial and Regional policies protect prime agricultural areas and specialty crop areas for long-term use of agriculture. According to Policy 4.1.2.2, single detached dwellings and accessory structures are permitted on existing lots of record, provided they were zoned for such or permitted through other regulation as of December 16, 2004.

Regional staff note that a portion of the parcel is identified as a Hydrologically Sensitive Area containing a Highly Vulnerable Aquifer (HVA), which is defined as a key hydrologic area. According to Policy 3.1.10 of the NOP, development or site alteration is not permitted in Key Hydrologic Areas unless it can demonstrate that it will not have a negative impact on the quantity and quality of water, hydrologic function, interaction and linkage between key hydrologic areas, natural hydrologic characteristics of a watercourse, natural drainage systems, and flooding or erosion. The NPCA buffer provided in the concept plan appears to be relatively consistent with the coverage of this key hydrologic area, however, a portion of the proposed septic system intercepts with the HVA.

Archaeological Resources

According to Schedule K of the NOP, the subject lands fall within the Area of Archaeological Potential. The Applicant provided a Stage 1 and 2 Archaeological Assessment Report by Archaeological Services Inc., dated November 1, 2022. The assessment concluded that there were no archaeological resources identified on the property and that no further assessment is required. Regional staff is satisfied with the conclusions of the assessment, and requires a copy of the Ministry of Citizenship and Multiculturalism (MCM) acknowledgement letter advising of the entry of the archaeological assessment report in the Provincial registry prior to approval of the amendment, through a Holding provision, or prior to issuance of a building permit. .

Core Natural Heritage System

The subject property is adjacent to portions of the Region's Core Natural Heritage System (CNHS), consisting of Type 1 (Critical) Fish Habitat. Additionally, based on aerial imagery available to the Region, it appeared that there may also be wetlands located on the subject lands. The property is also within the Protected Countryside of the Greenbelt Plan, which identifies watercourses and wetlands as Key Hydrologic Features. Provincial and Regional policies require the completion of an Environmental Impact Study (EIS) to assess potential impacts that may result from the proposed development.

Environmental Planning staff visited the property on January 11th, 2023 to confirm the scope of the required EIS. Based on staff observations, what was initially thought to be a potential wetland was instead identified as an upland meadow/shrub community. As such, the only Regionally designated CNHS feature was related to fish habitat

associated with the adjacent Sixteen Mile Creek watercourse. Due to the scope, nature and location of the proposed development, specifically the distance from the development footprint to the adjacent feature, staff were supportive of waiving the EIS in favour of a Landscape Plan.

Staff have reviewed the Restoration Landscape Plan, prepared by Myler Ecological Consulting, dated February 6, 2023, and offer no objection. Staff have reviewed the proposed Zoning By-law Amendment (ZBA) schedule circulated with the application which proposes to keep the entirety of the environmentally sensitive area within a Hazard Zone. Staff offer no objection to the area identified as hazard/conservation, but recommend that a site specific zoning provision or another mechanism be considered to ensure implementation of the Restoration Landscape Plan.

Servicing

Septic design and location are to be in accordance with and satisfactorily addressed through the approved septic permit (Regional File No. PSS-22-0176) for this development.

Waste Collection

Niagara Region provides curbside waste and recycling collection for developments that meet the requirements of Niagara Region's Waste Collection Policy. The subject property is eligible to receive Regional curbside waste and recycling collection provided that the owner bring the waste and recycling to the curbside on the designated pick up day, and that the following limits are met:

- Garbage: 2 bags/cans per unit collected every-other-week;
- Recycling: weekly blue/grey boxes or carts (unlimited);
- Organics: weekly green bins or carts (unlimited).
- **Curbside Collection Only**

Conclusion

Regional Planning and Development Services staff does not object to the proposed Zoning By-law Amendment application, as it is consistent with the PPS and conforms to Provincial and Regional policies, subject to receipt of the MCM acknowledgement letter, as noted above. Town staff should be satisfied that any local requirements for the proposal are met.

March 20, 2023

Please contact the undersigned at Carling.Macdonald@niagararegion.ca should you have any questions related to the above comments. Please send the Notice of Committee's Decision on this Application when available.

Best Regards,



Carling MacDonald
Development Planner

cc. Pat Busnello, MCIP, RPP, Manager, Development Planning, Niagara Region
Adam Bouden, Senior Environmental Planner, Niagara Region

From: [Sarah Mastroianni](#)
To: [Andrew Edwards](#)
Subject: RE: Request for Comments - Application for Zoning By-law Amendment - 2761 Maple Street
Date: Monday, February 27, 2023 4:21:58 PM
Attachments: [image001.jpg](#)

Hi Andrew,

NPCA staff offer no objections to the approval of this application.

Thank you.

Sarah Mastroianni
Manager, Planning and Permits
Niagara Peninsula Conservation Authority (NPCA)
250 Thorold Road West, 3rd Floor | Welland, ON L3C 3W2
Tel: 905-788-3135 | extension 249
smastroianni@npca.ca
www.npca.ca

Due to the COVID-19 pandemic, the NPCA has taken measures to protect staff and public while providing continuity of services. The NPCA main office is open by appointment only with limited staff, please refer to the Staff Directory and reach out to the staff member you wish to speak or meet with directly.

Updates regarding NPCA operations and activities can be found at Get Involved NPCA Portal, or on social media at facebook.com/NPCAOntario & twitter.com/NPCA_Ontario.

For more information on Permits, Planning and Forestry please go to the Permits & Planning webpage at <https://npca.ca/administration/permits>.

For mapping on features regulated by the NPCA please go to our GIS webpage at <https://gis-npca-camaps.opendata.arcgis.com/> and utilize our Watershed Explorer App or GIS viewer.

To send NPCA staff information regarding a potential violation of Ontario Regulation 155/06 please go to the NPCA Enforcement and Compliance webpage at <https://npca.ca/administration/enforcement-compliance>.

From: Mani Drummond <mdrummond@npca.ca>
Sent: February 24, 2023 3:10 PM
To: Sarah Mastroianni <smastroianni@npca.ca>
Subject: FW: Request for Comments - Application for Zoning By-law Amendment - 2761 Maple Street



Community Planning and Development Department
Committee of Adjustment
Monday, May 01, 2023

Consent Application: B6/2023P

Municipal Address: 1553 Pelham Street

Legal Description: Lot 6 on Plan 716 (Part 2 on Sketch)

Location of Lands and Purpose of Application:

The subject parcel, shown as Part 2 on the attached sketch, has a frontage of 10.04m on the east side of Pelham Street, lying north of Broad Street, being Lot 6 on Plan 716 in the Town of Pelham. This property was previously subject to Zoning By-law Amendment (AM-09-2021).

Application is made for consent to partial discharge of mortgage and consent to convey 402.2m² of land (Part 2), to create a lot line and establish legal ownership of each individual unit. Part 1 is to be retained for continued residential use.

Applicable Planning Policies:

Planning Act (Consolidated April 2022)

Section 51(24) of the *Planning Act* states that 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 matters, including:

- 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 (2020)

The Provincial Policy Statement (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.

Section 3 of the Planning Act requires that decisions affecting planning matters “shall be consistent with” policy statements issued under the Act. The PPS recognizes the diversity of Ontario and that local context is important. Policies are outcome-oriented, and some policies provide flexibility provided that provincial interests are upheld. PPS policies represent minimum standards.

The subject lands are located in the “Settlement Area”, according to the PPS.

Policy 1.1.3.1 states that settlement areas shall be the focus of growth and development.

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 are of the opinion the requested application for consent is consistent with the PPS.

Greenbelt Plan (2017)

The lands are located outside of the Greenbelt Plan and thus the policies of the Greenbelt Plan do not apply.

Growth Plan for the Greater Golden Horseshoe (2020)

This Plan informs decision-making regarding growth management and environmental protection in the Greater Golden Horseshoe (GGH). All decisions made after May 16, 2019 that affect a planning matter will conform to this Growth Plan, subject to any legislative or regulatory provisions providing otherwise. The policies of this Plan take precedence over the PPS to the extent of any conflict.

The Growth Plan contains various guiding principles which are intended to guide decisions of how land is developed. The guiding principles include building compact, vibrant, and complete communities, managing and encouraging development in appropriate locations, and optimizing the use of existing infrastructure. The subject lands are designated ‘Delineated Built-Up Area’ according to the Growth Plan.

Section 2.2.1 of the Growth Plan directs growth to settlement areas that have a delineated built boundary, have existing municipal services, and can support the achievement of complete communities. The Growth Plan states municipalities will support the achievement of complete communities by planning to accommodate forecasted growth, planning to achievement the minimum intensification and density targets of the Plan, considering the range and mix of housing options and densities of existing housing stock, and planning diversify overall housing stock.

The additional residential lot will help the Town to meet or exceed its *delineated built boundary* intensification targets. The proposed lot will help contribute towards the municipal property tax base which helps financially support the maintenance of linear infrastructure and *public service facilities*. The existing water and sanitary sewer mains already extend along the frontage of the subject lands but would be better utilized with additional building connections.

Planning staff are of the opinion the proposed application for consent conforms with the Growth Plan.

Region of Niagara Official Plan

The Region of Niagara adopted a new Official Plan on June 23, 2022. The Region of Niagara Official Plan provides the policy guidance for future development across the Region.

The lands continue to be designated as Built-Up Area in the new Official Plan, however the intensification rates have changed from and the policy 2.2.2.5 now requires that across the Region 60% of all residential units occurring annually are to be in the Build-Up Areas and in Pelham, this translates into an annual intensification rate of 25% of new residential units are to be within the Built-Up Area.

The lands are designated as Built-Up Area in the new Official Plan. Staff are of the opinion that the proposed variance conforms with the Regional Official Plan.

Town of Pelham Official Plan

The Town of Pelham Official Plan is the primary planning document that will direct the actions of the Town and shape growth that will support and emphasize Pelham's unique character, diversity, cultural heritage and protect our natural heritage features. The local Official Plan designates the subject land as 'Urban Living Area/Built Boundary' on Schedule 'A1.'

Policy A2.2.2 Growth & Settlement – states that it is a goal of this Plan to encourage intensification and redevelopment within the *Urban Area* specifically in proximity to the Downtown.

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

Staff is of the opinion that the proposed consent application is in keeping with the intent of the Official Plan by allowing for additional housing opportunities in an area where it is deemed appropriate.

Pelham Zoning By-law No. 4481(2022), as amended

The subject lands are zoned R3-127 in accordance with Zoning By-law No. 4481(2022). The property was subject to a Zoning By-law Amendment application (AM-09-2021) to allow for the construction of a two-storey semi-detached dwelling. The amendment was approved by Council and the semi-detached dwelling is currently under construction in accordance with the approved zone provisions.

It is noted that both the severed and retained lots will comply with the zone provisions outlined in the approved zoning amendment.

Agency and Public Comments:

On April 5, 2023 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.

To date, the following comments have been received:

- Building Division
 - No comments or concerns
- Public Works Department
 - No comments or concerns

No public comments were received at the time of writing this report.

Planning Staff Comments:

The current application deals with the severance of 402.8m² of land (Part 1) from the existing 402.2m² of land (Part 2). The semi-detached dwelling currently under construction is being built on a single lot of record but each half is not able to be

legally conveyed separately until such a time as a Certificate of Consent is registered into the Land Registry System.

Planning Staff is of the opinion that the proposal is an ideal application of current planning and development goals. The redevelopment of this property for a semi-detached residential use is a great example of gentle form of residential intensification within an existing neighbourhood which will have virtually no impact on adjacent land uses. The proposed severance is not permitting more development under the current Zoning By-law as the semi-detached dwelling was constructed legally on 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 Recommendation:

Planning staff recommend that consent file B6/2023P **be approved** 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 free of \$423, payable to the Treasurer, Town of Pelham, submitted to the Secretary-Treasurer. All costs associated with fulfilling conditions of consent shall be borne by the applicant.

Prepared and Submitted by:

Lindsay Richardson, MCIP, RPP
Policy Planner

Recommended by:

Barbara Wiens, MCIP, RPP
Director of Community Planning and Development Department

Memo

To: Sarah Leach, Deputy Clerk

CC: Jason Marr, Director of Public Works; Barb Wiens, Director of Planning and Development; Derek Young, Manager of Engineering; Nicholas Palomba, Engineering Technologist; Lucas Smith, Engineering Technologist

From: Gimuel Ledesma, Engineering Technologist

Date: March 27, 2023

File No: B6/2023P

RE: Consent–1553 Pelham Street

The Public Works Department has reviewed the submitted documentation regarding the proposed consent for 1553 Pelham Street.

The subject parcel, shown as Part 2 on the attached sketch, has a frontage of 10.04m on the east side of Pelham Street, lying north of broad Street, being Lot 6 on Plan 716 in the Town of Pelham. The property was previously subject to Zoning By-law Amendment (AM-09-2021).

Application is made for consent to partial discharge of mortgage and consent to convey 402.2 square metres of land (Part 2), to create a lot line and establish legal ownership of each individual unit. Part 1 is to be retained for continued residential use.

Public Works offer the following comments:

- No Comments

Public Works offer the following conditions:

- No Comments

To: Sarah Leach

Cc: Lindsay Richardson

From: Alex Foisey, Building Intake/Zoning Technician

Date: April 19th, 2023

Subject: Building Comments on Applications to the Committee of Adjustment for
1553 Pelham Street, Pelham

File Number: B6/2023P

Comment:

- Building Department has no comment.

Respectfully,
Alex Foisey



Community Planning and Development Department
Committee of Adjustment
Monday, April 03, 2023

Consent Application: B5/2023P

Municipal Address: 26 Chestnut Street

Legal Description: Lot 17 on Plan 716

Roll number: 2732 020 003 04900

Location of Lands and Purpose of Application:

The subject parcel, shown as Part 1 on the attached sketch, has a frontage of 18.57m on the south side of Hurricane Road, lying west of Chestnut Street, being Lot 17 on Plan 716 in the Town of Pelham. The parcel is approximately 783 m² in area and has 40.6 metres of frontage on Hurricane Road and 20.3 metres of frontage on Chestnut Street.

Application is made for consent to partial discharge of mortgage and consent to convey 352 square metres of land (Part 1) for future construction of a single detached dwelling. Part 2 is to be retained for continued residential use of the dwelling known municipally as 26 Chestnut Street.

This application is being considered concurrently with Minor Variance Files A6/2023P and A7/2023P.

Applicable Planning Policies:

Planning Act (Consolidated April 2022)

Section 51(24) of the *Planning Act* states that 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 matters, including:

- a) The development's effect on provincial matters of interest;
 - See PSS and Growth Plan analysis in sections below.
- b) Whether the proposed subdivision is premature or in the public interest;

- The application is not considered premature and is able to uphold the public interest as it is within the Urban Area Boundary where development is to be directed and is seen as an appropriate form of gentle intensification. Note that public interest is a broad term and is reflected by approved policy and is distinct from the public's personal interest on a matter.
- c) Whether the plan conforms to the Official Plan and adjacent plans of subdivisions, if any;
- See Official Plan discussion below.
- d) The suitability of the land for such purposes;
- The lands and surrounding neighbourhood are predominately low density residential dwellings. The proposed consent would facilitate the construction of an additional single detached dwelling on the proposed lot and is suitable for such use.
- f) The dimensions and shapes of the proposed lots;
- The dimension and shape of the proposed lot will be able to comfortably site a new single detached dwelling and an accessory building. The dimension and shape of the retained lot is also suitable to accommodate the existing dwelling and proposed relocated shed. It is noted minor variances are required.
- h) Conservation of natural resources and flood control;
- No natural resources or flood concerns have been identified. A lot grading and drainage plan will be recommended as a condition of approval.
- i) The adequacy of utilities and municipal services;
- The retained parcel is connected to municipal infrastructure and has access to the full range of public services. Utilities and municipal services are available to service the severed parcel and it will be required to connect to municipal services.
- j) The adequacy of school sites;
- Available nearby. School Boards did not comment on application.

Provincial Policy Statement (2020)

The Provincial Policy Statement (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.

Section 3 of the Planning Act requires that decisions affecting planning matters “shall be consistent with” policy statements issued under the Act. The PPS recognizes the diversity of Ontario, and that local context is important. Policies are outcome-oriented, and some policies provide flexibility provided that provincial interests are upheld. PPS policies represent minimum standards.

The subject lands are in a “Settlement Area”, the Fonthill Urban Settlement Area, according to the PPS. Policy 1.1.3.1 states that settlement areas shall be the focus of growth and development.

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

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.

Infill development is an acceptable form of *intensification* so long as new development is compatible in nature, is compact, and avoids adverse impacts to provincial interest, public health, safety, and the quality of the human environment. Planning staff are of the opinion the proposed consent is consistent with the PPS and promotes appropriate development standards that help facilitate compact form and *intensification*.

Planning staff are of the opinion the requested application for consent is consistent with the PPS.

Greenbelt Plan (2017)

The lands are located outside of the Greenbelt Plan and thus the policies of the Greenbelt Plan do not apply.

Growth Plan for the Greater Golden Horseshoe (2020)

This Plan informs decision-making regarding growth management and environmental protection in the Greater Golden Horseshoe (GGH). All decisions made after May 16, 2019, that affect a planning matter will conform to this Growth Plan, subject to any legislative or regulatory provisions providing otherwise. The policies of this Plan take precedence over the PPS to the extent of any conflict.

The Growth Plan contains various guiding principles which are intended to guide decisions of how land is developed. The guiding principles include building compact, vibrant, and complete communities, managing and encouraging development in appropriate locations, and optimizing the use of existing infrastructure. The subject lands are designated 'Delineated Built-Up Area' according to the Growth Plan.

Section 2.2.1 of the Growth Plan directs growth to settlement areas that have a delineated built boundary, have existing municipal services, and can support the achievement of complete communities. The Growth Plan states municipalities will support the achievement of complete communities by planning to accommodate forecasted growth, planning to achievement the minimum intensification and density targets of the Plan, considering the range and mix of housing options and densities of existing housing stock, and planning diversify overall housing stock.

The additional residential lot will help the Town to meet or exceed its *delineated built boundary* intensification targets. The proposed lot will help contribute towards the municipal property tax base which helps financially support the maintenance of linear infrastructure and *public service facilities*. The existing water and sanitary sewer mains already extend along the frontage of the subject lands but would be better utilized with additional building connections.

Planning staff are of the opinion the proposed application for consent conforms with the Growth Plan.

Region of Niagara Official Plan

The Region of Niagara adopted a new Official Plan on June 23, 2022. The Region of Niagara Official Plan provides the policy guidance for future development across the Region.

The lands continue to be designated as Built-Up Area in the new Official Plan, however the intensification rates have changed from and the policy 2.2.2.5

now requires that across the Region 60% of all residential units occurring annually are to be in the Built-Up Areas and in Pelham, this translates into an annual intensification rate of 25% of new residential units are to be within the Built-Up Area.

The lands are designated as Built-Up Area in the new Official Plan. Staff are of the opinion that the proposed consent conforms with the Regional Official Plan.

Town of Pelham Official Plan

The Town of Pelham Official Plan is the primary planning document that will direct the actions of the Town and shape growth that will support and emphasize Pelham's unique character, diversity, cultural heritage and protect our natural heritage features. The local Official Plan designates the subject land as 'Urban Living Area/Built Boundary' on Schedule 'A1.'

Policy A2.2.2 Growth & Settlement – states that it is a goal of this Plan to encourage intensification and redevelopment within the *Urban Area* specifically in proximity to the Downtown.

Section A2.3.2 Urban Character sets out the objectives for the urban character of the Town. Objectives include to respect the character of existing development and ensure that all applications for development are physically compatible with the character of the surrounding neighbourhood, and to maintain and enhance the character and stability of existing and well-established residential neighbourhoods by ensuring that development and redevelopment is compatible with the scale and density of existing development. The proposal is supported by the Town Official Plan policies that encourage infill within existing built-up areas. It is noted compatibility does not necessarily mean the same as, rather the ability to coexist together.

The character of this neighbourhood is an eclectic mix of housing and density including single detached and townhouse units reflecting a variety of housing styles from traditional to modern and constructed over a variety of era's of development. For example, the existing house on Part 2 was constructed in 1911 and the garage in 1986, the townhouses at 1599 Pelham Street across the road from the subject lands were constructed in the late 1970's and recently new single detached dwellings on the north side of Hurricane Road were constructed this year. The dwellings on adjacent properties were also constructed between 1910-1912. The neighbourhood is considered to be a stable established neighbourhood that has been experiencing some recent intensification with the approval of four new residential lots at 3 Hurricane Road, however it is reflective of a neighbourhood that has experienced change

at different times and has evolved over time such that changes have been successfully absorbed into the fabric of the neighbourhood. The proposed lot creation would provide for residential development that reflects of the density and contributes to the eclectic character of the area.

Policy A2.5.2 Infrastructure – stated objectives of this Plan include maintaining existing infrastructure in a manner that is cost effective and contributes to the quality of life of citizens.

Policy B1.1.3 states that in considering residential intensification proposals, the following criteria are applicable:

- a) Schedules A1 and A2 to this Plan identify a number of areas that may be good candidates for residential intensification. This does not preclude consideration for other sites in the Urban Living Area designation provided these sites abut arterial or collector roads or are located on a local road on a site that is no further than 100 metres from an intersection with an arterial or collector road;
 - The subject lands abut Hurricane Road which is identified as a Collector Road. Further, the subject lands are situated approximately 50 metres east of Pelham Street, an Arterial Road.
- b) Intensification and redevelopment proposals are encouraged to achieve a unit density and housing type that is in keeping with the character of the density of the neighbourhood where it is proposed. Within the identified intensification areas identified on Schedules A1 and A2 the implementing Zoning By-law may establish minimum and maximum densities of between 10 and 25 units per hectare;
 - The surrounding neighbourhood is characterized by low to medium density residential dwellings, comprised of one to two storey single detached dwellings and townhouse dwellings. The proposed consent will facilitate the development of an additional single detached dwelling which is in keeping with the character of the surrounding neighbourhood. The existing R2 zone permits a maximum net density of 28 u/h assuming the default minimum lot area of 360 m². The proposed density is approximately 26 units per hectare, which, in the opinion of staff meets the intent of policy B1.1.3. It is noted that the subject lands are not within an intensification area identified on Schedules A1 and A2 and therefore the density provisions of 10-25 units/hectare do not apply in this instance.

- c) Residential intensification and redevelopment proposals located on lands which abut local roads shall maintain the unit density and unit type of the surrounding neighbourhood, but may through a Zoning By-law Amendment, increase the unit density by up to 25% of the existing gross density of lands located within 300 metres of the site, provided the resultant development will be characterized by quality design and landscaping, suitable building setbacks, and further that parking areas and traffic movements will not negatively impact the surrounding neighbourhood from the perspectives of safety or neighbourhood character;
- Hurricane Road where the proposed lot abuts is not a local Road. Not applicable.
- d) Notwithstanding items (b) and (c), the creation of new freehold or vacant condominium infill lots through the consent process, for ground-oriented detached dwellings, may be permitted provided the proposed lot and unit type is similar to and compatible with the established character of the street or neighbourhood where it is proposed. The Zoning By-law shall establish minimum lot area and frontages and minimum and/or maximum densities which are considered appropriate within the Urban Living Area designation;
- The proposed use is similar to the surrounding neighbourhood, being mostly comprised of single detached dwellings and medium density residential uses. The existing dwelling on Chestnut Street is to be retained. The severed lands are proposed to contain a single detached dwelling fronting Hurricane Road and an accessory building, consistent with the other residential uses and permissions allowed in the surrounding area.
- e) The creation of accessory apartments and in-law suites within residential neighbourhoods is considered to be an appropriate form of residential intensification. The establishment of accessory apartments shall occur in accordance with Policy B1.1.4 and Council may reduce the application fee for such amendments under the Town's Tariff of Fees By-law;
- Second dwelling units are permitted in single detached dwellings and accessory buildings subject to meeting the zoning by-law requirements for such uses. The proposed application is for a new single detached dwelling.
- f) The provision of affordable housing in intensification areas will be encouraged; and,

- The new lot will allow for one additional single detached dwelling to be constructed on it. The Town does have policies that permit second dwelling units in single detached dwellings and accessory buildings that if employed would help foster housing affordability.
- g) The Town will consider innovations for responsive processing of applications and amendments in the future including tools such as Conditional Zoning Amendments implementing a Development Permit system and the streamlining of processing concurrent development applications.
- Not applicable.

Policy D5.2.1 states that for any consent application, the Committee of Adjustment shall be satisfied that (among other things) the proposed lot:

- a) Fronts on and will be directly accessed by a public road that is maintained on a year round basis;
- Access will be provided from Chestnut Street for the retained lot and Hurricane Road for the proposed lot, which are both public roads.
- b) Will not cause a traffic hazard as a result of its location on a curve or a hill;
- No traffic hazards are anticipated from the proposed consent.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
- The proposed consent for residential use is in keeping with the intent of the Zoning By-law. It is noted that minor variances are being requested, please refer to concurrent minor variance reports.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
- Yes, municipal services exist on Chestnut Street.
- e) Will not have a negative impact on the drainage patterns in the area;

- A Lot Grading Plan will be required at the Building Permit stage demonstrating that drainage will be maintained on-site and not negatively impact on adjacent properties.
- f) Will not affect the development ability of the remainder of the lands, if they are designated for development by this Plan;
- N/A. The retained lot will be retained for existing residential use.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
- No environmentally sensitive features are on the property.
- h) Conforms with Regional lot creation policy as articulated in the Regional Policy Plan; and,
- Yes.
- i) Complies with the appropriate provincial Minimum Distance Separation Formulae, where applicable.
- N/A.

The Town's Cultural Heritage Master Plan identifies the subject lands as having composite potential for deeply buried archaeological resources. The applicant must conduct an Archaeological Assessment prepared by a licensed archaeologist and receive clearance letter (s) from the Ministry of Heritage, Sport, Tourism & Culture.

Town Planning staff are of the opinion the proposed severance conforms to the local Official Plan as it helps enable intensification within an existing neighbourhood and does not conflict with any policies subject to the satisfaction of the conditions of approval.

Pelham Zoning By-law No. 4481 (2022), as amended

The subject lands are zoned Residential 2 (R2) in accordance with Zoning By-law No. 4481 (2022). Permitted uses include: one single detached dwelling, semi-detached, duplex dwelling, second dwelling units, home occupations, and uses, buildings, and structures accessory thereto.

Minor variance applications (A6/2023P and A7/2023P) are being heard in conjunction with the proposed severance to address deficiencies from the Zoning By-law. Please refer to minor variance reports for a fulsome analysis.

Agency and Public Comments:

On April 5, 2023, a revised 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.

This revised notice recognizes the April 3, 2023, decision of the Ontario Land Tribunal which ordered that the new Town of Pelham Comprehensive Zoning By-law 4481 (2022) is now in full force and effect save and except as it applies to site specific lands identified on Appendix 1 of the decision and is deemed to have come into force on the day the ZBL was passed, namely August 30, 2022.

To date, the following comments have been received:

- Building Division
 - No comments.
- Public Works Department
 - No side-yard walkways that impede side-yard swales shall be permitted.
 - Each lot is to be individually serviced with water and sanitary sewer lateral in accordance with Town of Pelham Engineering Standards. Installation of any missing services will require a Temporary Works Permit obtained through the Public Works Department. These works are to be completed prior to consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete.
 - Town staff will require a comprehensive lot grading and drainage plan demonstrating that storm water runoff will not negatively impact nor rely upon neighboring properties, to the satisfaction of the Director of Public Works or his designate.
 - That the Applicant confirm no existing utilities cross the proposed new property line. Should any services cross this new property line the applicant shall be responsible for the costs to relocate the utilities.

Five (5) public comments were received at the time of writing this report. The comments are included in full on the public agenda and summarized below.

David and Mary Jo Drago

- *Opposes the consent and variances; Concerns relating to negative impacts of reduced lot area, setbacks, coverage; Concerned with negative impacts on the character of the neighbourhood; Concerns with lack of green space and impacts for stormwater runoff/drainage; Concerns related to a lack of amenity area and loss of mature trees and no egress to an open yard; Suggested second dwelling unit would be more appropriate for the site; Concerns with compatibility related to an overbuild of the site; Concerns with the scale of the proposed dwelling; Concerns with privacy and overlook on neighbouring properties; Concerns the number of variances does not respect the intent of the Zoning By-law; Concerns related to scale and density; Concerns related to the intensification of the surrounding area; Concerns the proposed variances associated with the consent application do not meet the four tests of the Planning Act; Concerns the retained lot will not maintain a carport or private garage; Concerns with snow storage and potential impacts on neighbouring properties and integrity of existing cedars and fence; Concerns with light and noise impacts; Concerns with the size, scale, and density of the proposal; Concerns related to impacts on the heritage/character of the surrounding neighbourhood; Concerns with precedence setting;*

Blue Mackay

- *Opposes the consent and variances; Concerns with respect to the character and compatibility of the proposal with the surrounding neighbourhood; Concerns the proposed variances associated with the consent are not minor in nature;*

Cheryl Lapalme

- *Opposes the consent and variances; Concerns with the removal of trees; Concerns with traffic impacts on Hurricane Road; concerns the number of variances requested is not minor; concerns respecting the character and stability of the existing neighbourhood; Concerns related to parking on public road; Concerns with drainage along Hurricane Road;*

Robert & Victoria McCauley

- *Opposes the consent and variances; Concerns lot area is not large enough to support dwelling; Concerns with fire and storm drainage; Concerns with parking and traffic impacts on local streets;*

Gary Birch

- *Opposes the consent and variances; Concerns related to reduction of green space and loss of private trees; concerns related to drainage along*

Hurricane Road; Concerns with impacts of construction; Concerns with potential removal of hydro pole; Concerns with precedence setting;

Planning Staff Comments:

A pre-consultation meeting was held with the applicant(s) of the property and staff from the Town, and Niagara Region Planning & Development Services on January 19, 2023, to discuss the subject application.

Planning staff have reviewed the *Planning Justification Brief* submitted by Better Neighbourhoods Development Consultants dated February 27, 2023, as well as reviewed all agency and public correspondence submitted to date and offer the following for the Committee's consideration:

When considering any Planning Act application, a planner must always consider the "public interest" and ensure that their professional recommendations take this concept into account. In very general terms the public interest reflects policy and the common well-being of a population but often is confused with public opinion or personal interests of the public. Public opinion is what various stakeholders think and say about an issue at a point in time; public interest is an attempt to identify and address the underlying concerns today and into the future, and to balance them against one another, to reach a recommendation. For any project, there is often more than one public interest, and it is the responsibility of the planner to identify and balance these multiple interests to meet the identified needs reflected in public policy.

The application for consent is being made to convey 352m² of land for future construction of a single detached dwelling (Part 1) and to retain the existing single detached dwelling (Part 2) at 26 Chestnut Street for continued residential use. As noted earlier in this report, the Province and the Region of Niagara through their new Official Plan have set density targets for the Town of 25% annually. This is to be achieved through a mix of new development on designated lands and through infill and intensification opportunities within the existing built area.

When reviewing the consent application and the concurrent minor variance applications Staff note that there is no precise definition or mathematical equation as to what constitutes minor. "Minor" is a relative term to be interpreted and based on the individual circumstance of each application and lends itself to the degree of impact. Simply, what may be considered acceptable on one site, may not be appropriate on a different site based on any number of factors and individual circumstances. There is no detailed formula or simple answer for desirability when it comes to the use of the land. Further every *Planning Act* application is analyzed on a case-by-case basis and

on its own merit. Meaning that any decision made by the Committee does not set a precedence for future applications.

The proposal is supported by the Town Official Plan policies that encourage infill within existing built-up areas. This supports the long-term public interest by minimizing the impact of sprawl on agricultural lands while supporting re-investment in existing communities to maintain their stability and vibrancy, providing for an efficient use of infrastructure and land, and contributing to the development of compact communities that foster walkability and a sense of place. The proposal, if approved would permit the creation of an additional residential lot in a neighbourhood comprised of primarily single detached and townhouse dwelling units. Staff do not anticipate any issues in terms of land use compatibility with the surrounding residential uses. Adequate parking and private amenity areas are provided for both Parts 1 and 2 and Staff are of the opinion that the proposal represents a good example of gentle intensification within the existing neighbourhood.

With respect to concerns related to drainage, a lot grading and drainage plan will be required as part of the building permit process for the proposed dwelling and accessory structure which will ensure that the stormwater from the addition be managed on site. A condition is being recommended that requires the proponent to prepare a grading and drainage plan to the satisfaction of the Director of Public Works that demonstrates that appropriate on-site drainage can occur without adversely impacting adjacent properties.

It is not anticipated the proposed dwelling and accessory structure will result in noise or light pollution impacts over and above what is normal for a residential use which is not an adverse impact.

With respect to concerns that visitors may park along Hurricane Road and Chestnut Street, it is important to note that on-street parking is permitted on the Town road allowances unless signed otherwise or during a snow event. The severed and retained lots maintain private on-site parking and comply with the zoning requirements of 2 parking spaces for a single detached dwelling.

Some members of the public were critical of the modern building design and felt it does not fit in with the surrounding community. The surrounding neighbourhood includes a mix of single detached dwellings, semi-detached dwellings, and a multi-unit residential development. There is no consistent architectural style, rather there is an eclectic mix of architectural styles and influences representing various eras of development. It is noted compatibility does not necessarily mean the same as, rather the ability to coexist. The

proposed dwelling is 2 storeys, consistent with existing dwelling and adjacent dwellings.

Planning Staff understand that the surrounding neighbours are generally unsupportive of the consent application and concurrent minor variance applications. Staff is sympathetic to the fact that change on any level can bring a degree of discomfort and anxiety and recognize and acknowledge the comments and concerns raised by residents. However, Staff must make recommendations based on the planning merits of the application and balance it against the appropriate Provincial, Regional and Local planning policies. While the application is site specific, Staff must consider the implications through a broader, Town-wide lens and the broader public interest.

Based on the analysis in the sections above, Planning staff are of the opinion that the proposed consent is consistent with the PPS, and confirms to Provincial, Regional and local Plans. The resulting parcel will comply with applicable Zoning By-law regulations upon the granting of the concurrent minor variance applications and is not anticipated to negatively impact the surrounding neighbourhood with respect to traffic, privacy, and stormwater management.

Planning Staff Recommendation:

Planning staff recommend that consent file B5/2023P **be approved** subject to the following condition(s):

THAT the applicant:

- Submit a comprehensive Lot Grading & Drainage Plan for all parcels demonstrating that the drainage neither relies, 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, or designate.
- That the applicant confirm that no existing utilities cross the proposed lot line. Should any services cross the lot line, the applicant shall be responsible for costs associated with their relocation and/or removal.
- Obtain approval for a Driveway Entrance & Culvert Permit, as applicable, issued through the Public Works department, to Town standards. The applicant shall bear all costs associated with these works.
- Conduct a Stage 1-2 Archaeological Assessment prepared by a licensed archaeologist and receive clearance from the Ministry of Heritage, Sport, Tourism & Culture. At a minimum, the Assessment must cover the building envelope of the proposed lot eligible for disturbance, and be

accepted by the Ministry prior to clearance of this condition. The licensed archaeologist may recommend further archaeological analysis or preservation steps be taken. No demolition, grading or other soil disturbances shall take place on the subject land prior to the issuance of a Ministry letter confirming that all archaeological resource concerns have been mitigated and meet licensing and resource conservation requirements.

- 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 \$423, 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 and Submitted by:

Lindsay Richardson, MCIP, RPP
Policy Planner

Recommended by:

Barbara Wiens, MCIP, RPP
Director of Community Planning and Development Department

Memo

To: Sarah Leach, Deputy Clerk

CC: Jason Marr, Director of Public Works; Barb Wiens, Director of Planning and Development; Derek Young, Manager of Engineering; Nicholas Palomba, Engineering Technologist; Lucas Smith, Engineering Technologist

From: Gimuel Ledesma, Engineering Technologist

Date: March 7 2023

File No: B5/2023P

RE: Consent– 26 Chestnut Street

The Public Works Department has reviewed the submitted documentation regarding the proposed minor variance of 26 Chestnut Street.

The subject parcel, shown as Part 1 on the attached sketch, has a frontage of 18.57m on the south side of Hurricane Road, lying west of Chestnut Street, being Lot 17 on Plan 716 in the Town of Pelham.

Application is made for consent to partial discharge of mortgage and consent to convey 352 square metres of land (Part 1) for future construction of a single detached dwelling. Part 2 is to be retained for continued residential use of the dwelling known municipally as 26 Chestnut Street.

This application is being considered concurrently with Minor Variance Files A6/2023P and A7/2023P.

Public Works offer the following conditions:

- Each lot is to be individually serviced with water and sanitary sewer lateral in accordance with Town of Pelham Engineering Standards. Installation of any missing services will require a Temporary Works Permit obtained through the Public Works Department. These works are to be completed prior to consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete.
- Town staff will require a comprehensive lot grading and drainage plan demonstrating that storm water runoff will not negatively impact nor rely upon neighboring properties, to the satisfaction of the Director of Public Works or his designate.
- That the Applicant confirm no existing utilities cross the proposed new property line. Should any services cross these lot lines, the applicant shall be responsible for costs associated with their relocation and / or removal.

To: Sarah Leach

Cc: Andrew Edwards

From: Alex Foisey, Building Intake/Zoning Technician

Date: March 22, 2023

Subject: Building Comments on Applications to the Committee of Adjustment for
26 Chestnut, Pelham

File Number: B5/2023P

Comment:

- Building Department has no comment.

Respectfully,
Alex Foisey

MAY 1ST, 2023

26 Chestnut Street, Fonthill Severance & Minor Variance



Site Context

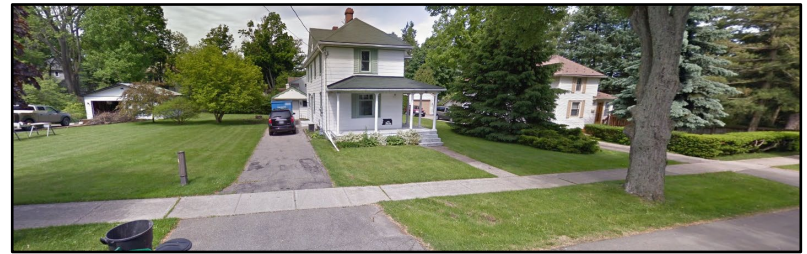
- North → Townhouses and Single Detached Residential



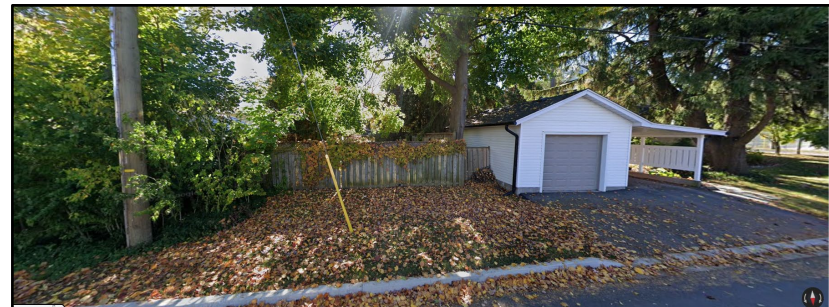
- East → Single Detached Residential



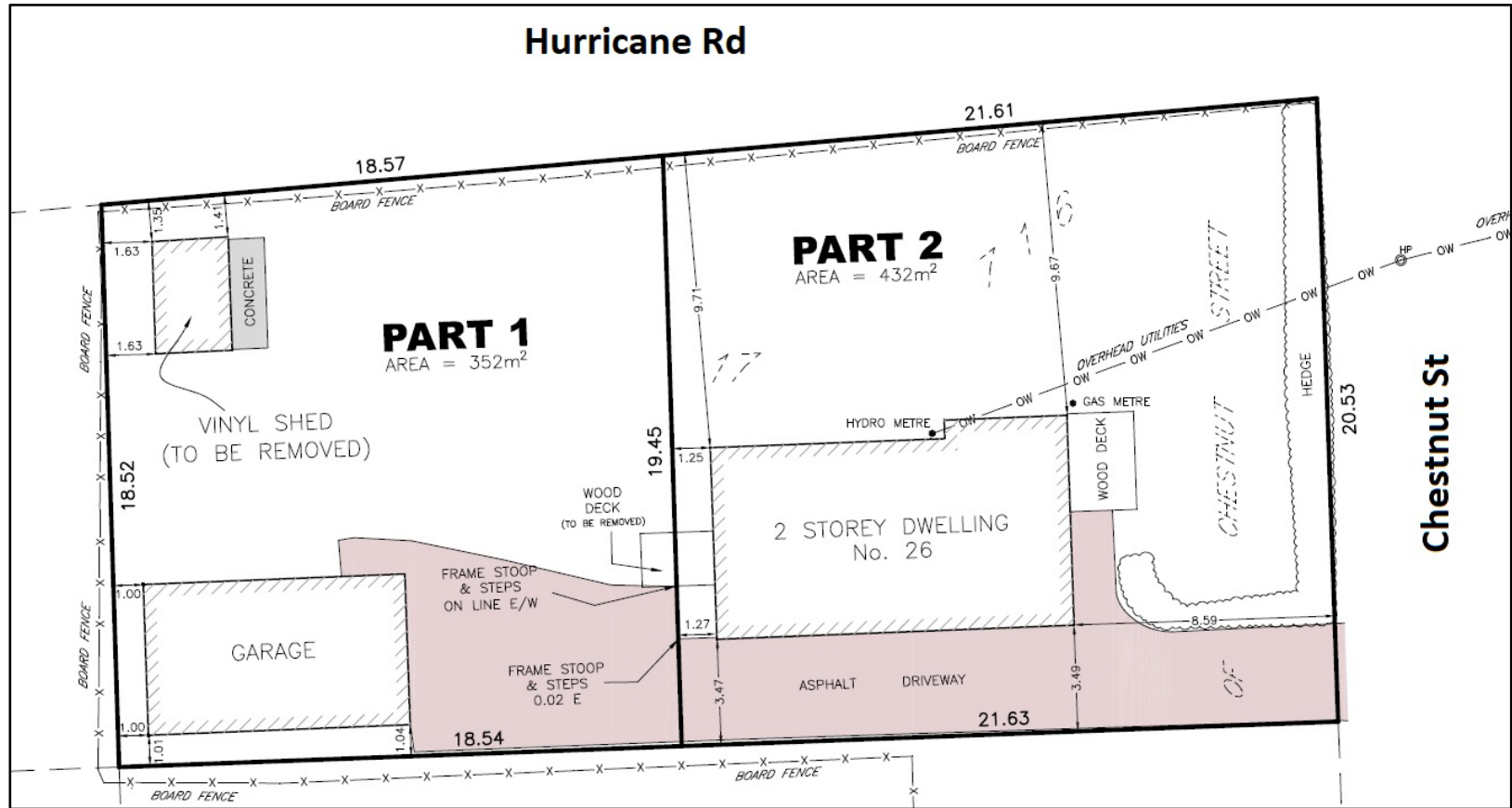
- South → Single Detached Residential



- West → Single Detached & Duplex Residential

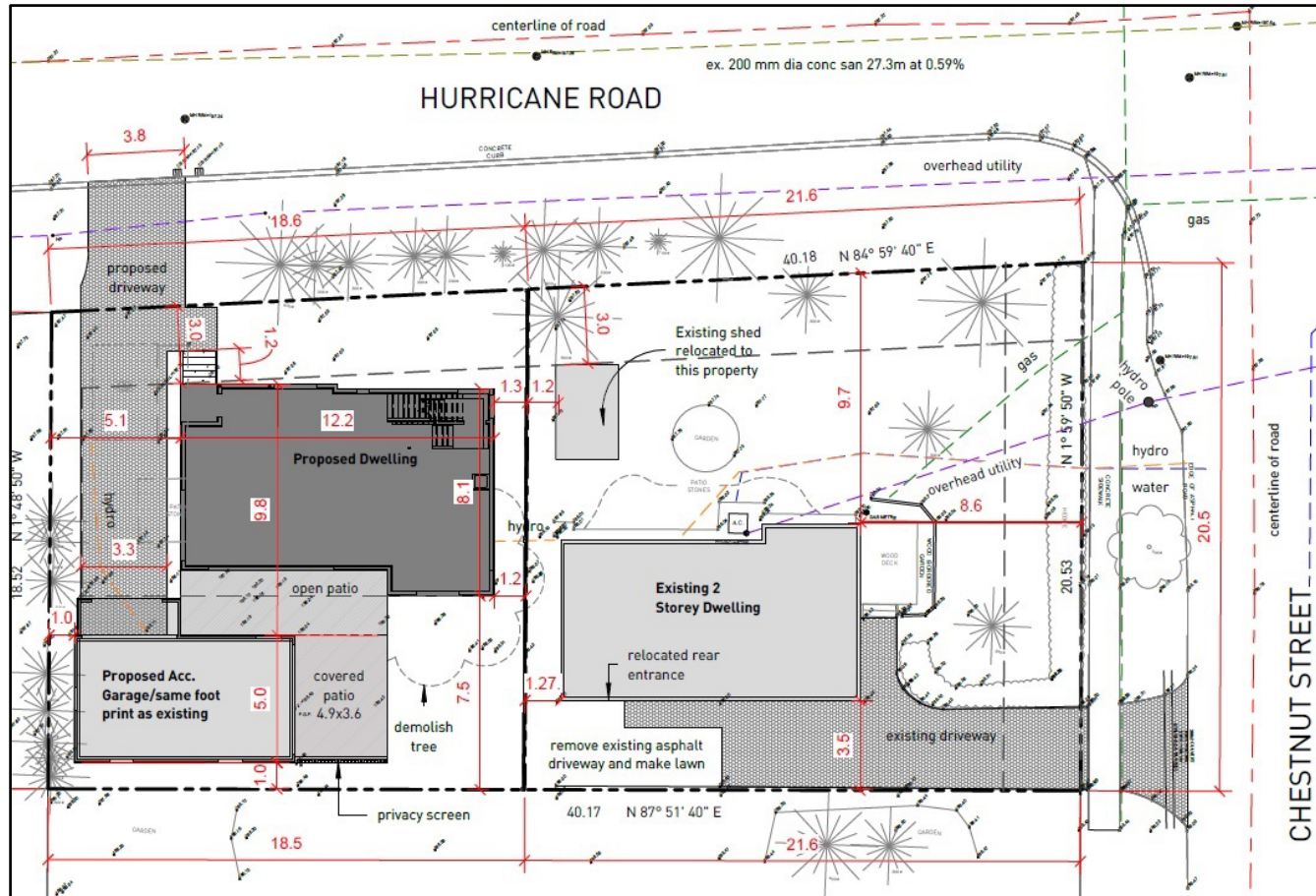


Proposed Severance



- Sever existing 784 m² corner lot & create one new lot fronting Hurricane Rd on a 352 m² lot (Part 1)
- Preserve existing detached dwelling & shed.
- Shed to be relocated onto retained lot (Part 2).
- Maintain existing detached garage footprint with potential small expansion.

Proposed Site Plan



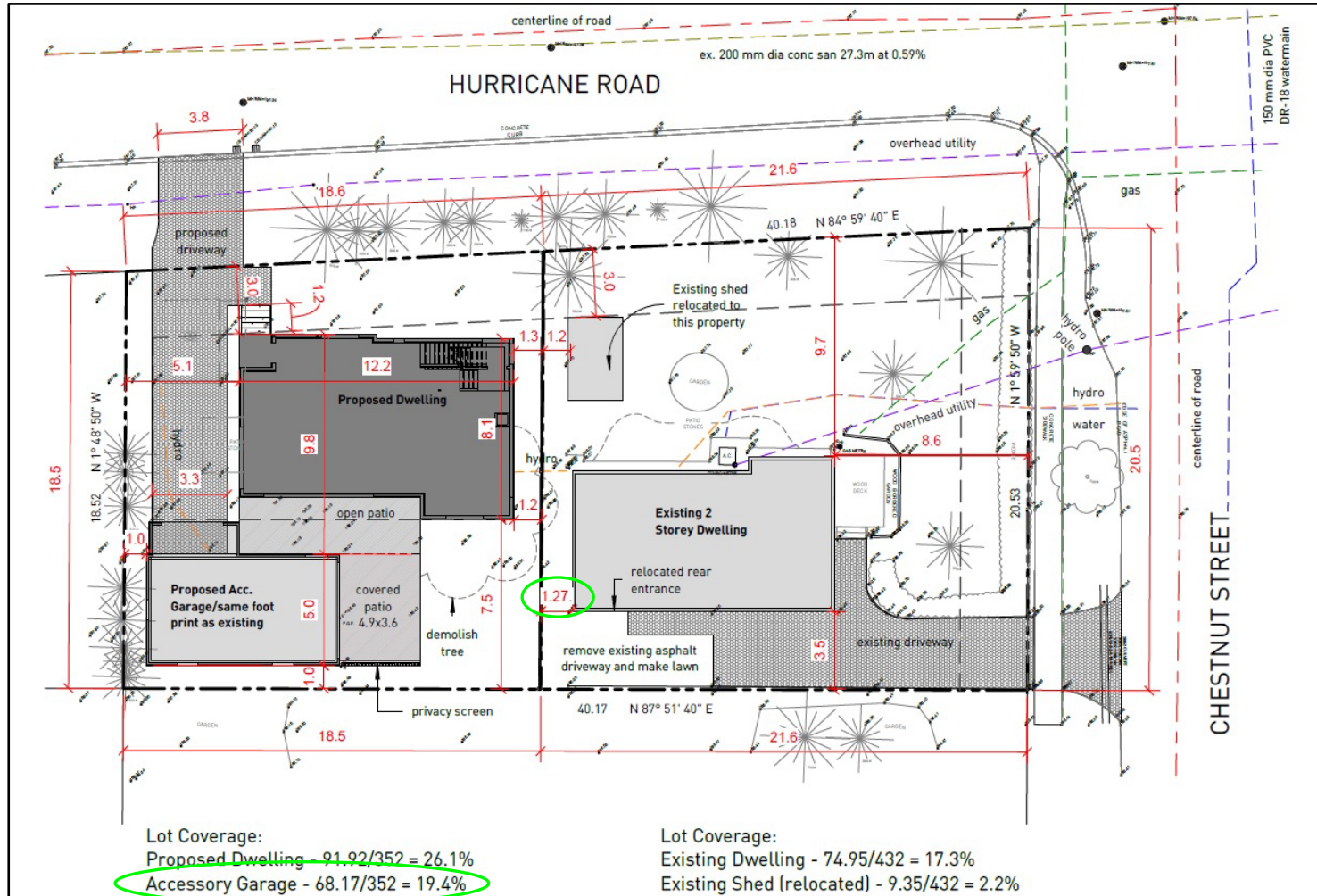
Severed Lot:

- New single detached dwelling fronting Hurricane Rd
- Remove existing driveway that formerly served garage
- No tree or fence removal along western lot line
- Large trees on Town boulevard will not be impacted by new driveway

Retained Lot:

- Remove portion of driveway and restore with landscaping
- Rear yard reduction is technical in nature given house orientation & lot geometry

Proposed Minor Variances



Severed Lot:

- Min Lot Area: $360 \text{ m}^2 \rightarrow 352 \text{ m}^2$
- Max Lot Coverage (Accessory Building): $10\% \rightarrow 20\%$

Retained Lot:

- Min Rear Yard: $7.5 \text{ m} \rightarrow 1.2 \text{ m}$



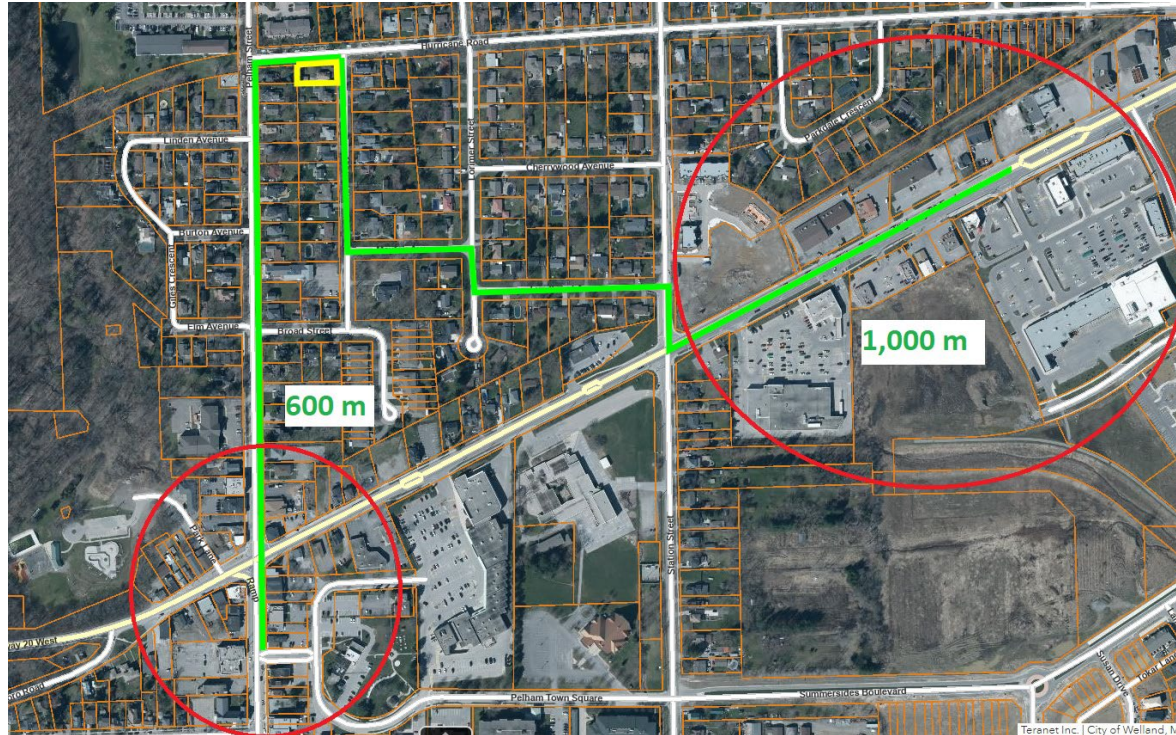
- Pedestrian-oriented design + subordinated rear yard garage.
- Human-scale proportions + prominent front-entrance.
- Vertically dominant + aligned windows at proper elevation help engage the street level.

Proposed Elevation Plans



Town of Pelham Official Plan

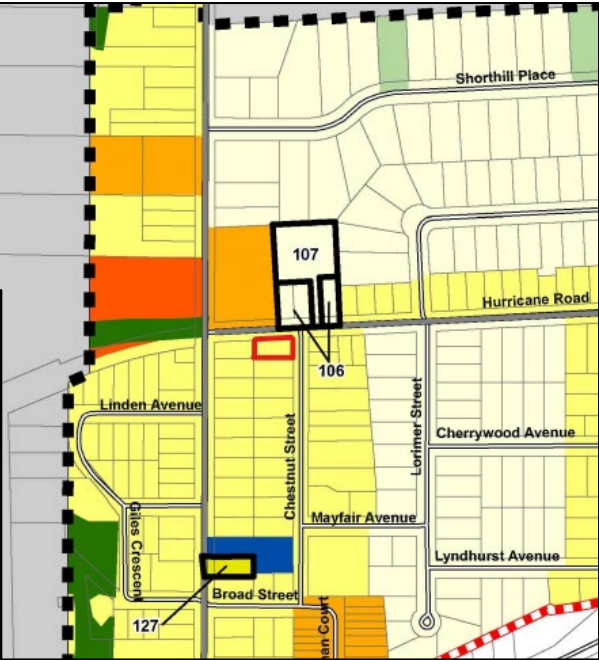
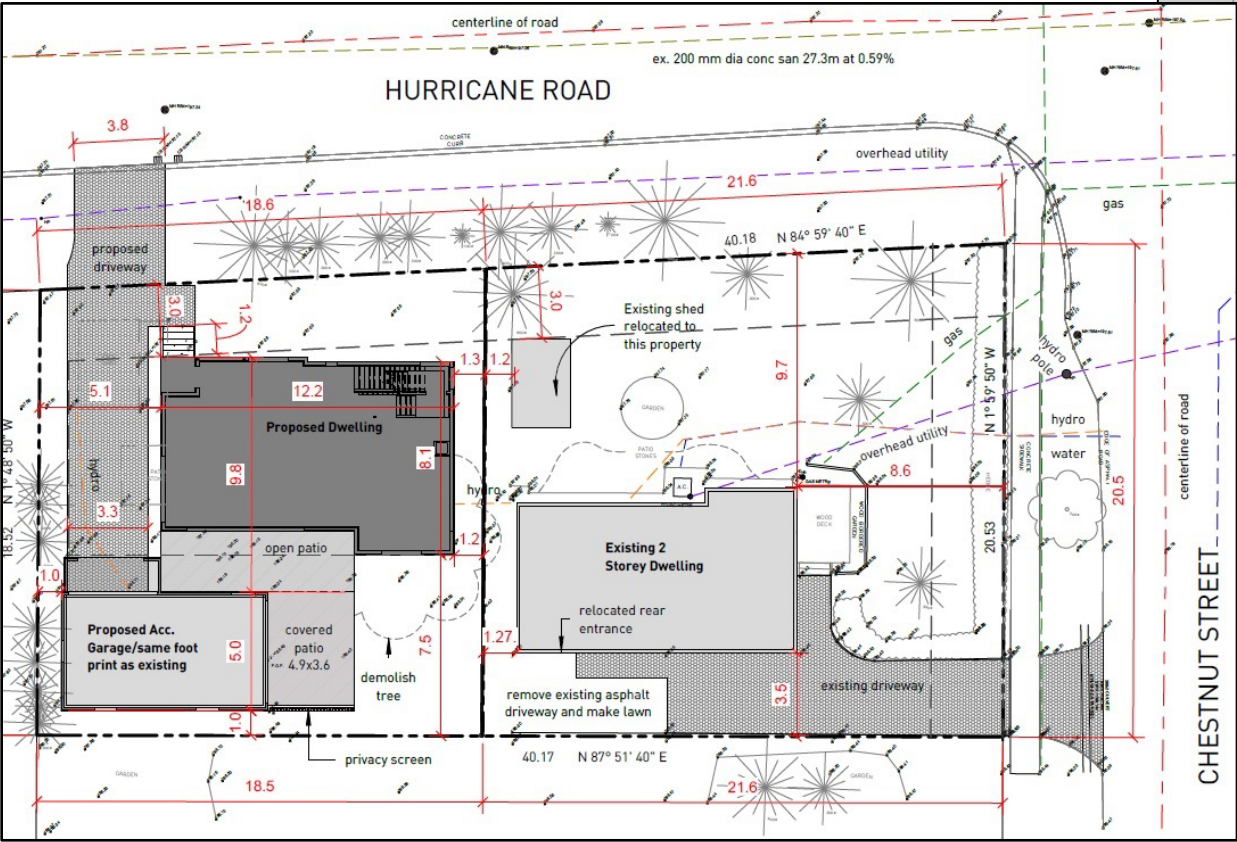
*“To encourage intensification and redevelopment within the Urban Area **specifically in and in proximity to the Downtowns.** (Policy A2.2.2)”*



*“To **encourage** the development of neighbourhoods which are compact, pedestrian-friendly and provide a mix of housing types. (Policy A2.3.2)”*

“To maintain existing infrastructure in a manner that is cost effective. (Policy A2.5.2)”

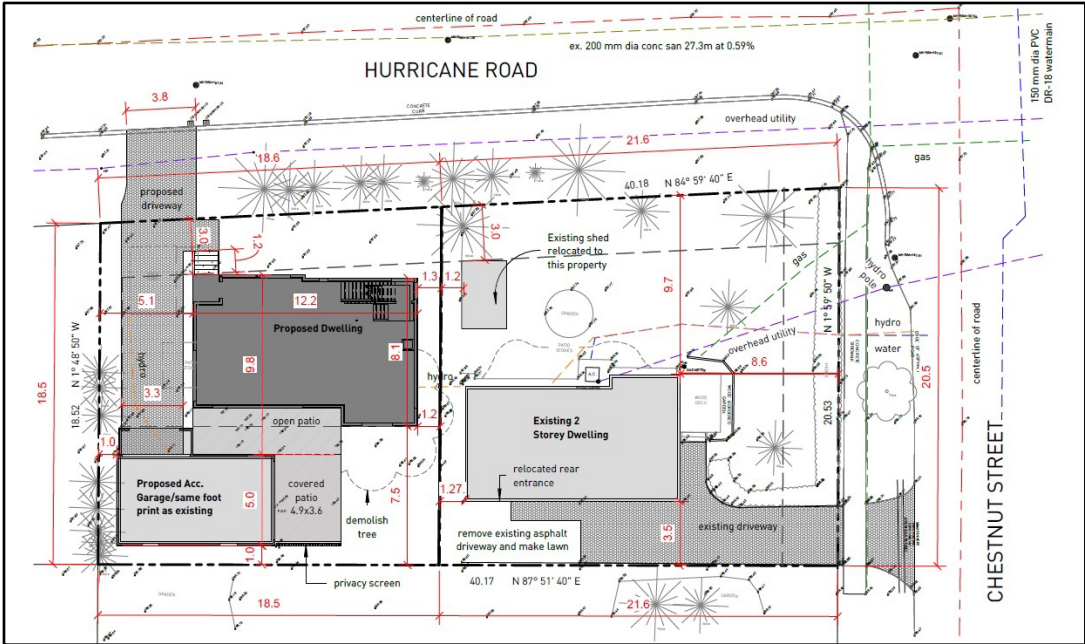
Pelham Zoning By-Law (2022)



Public Comments



Questions



FORE
STIG
EEN

From: SHLLAKU Paul <Paul.Shllaku@hydroone.com>
Sent: Friday, March 3, 2023 2:24 PM
To: Jennie Hyun-Ji Song <JSong@pelham.ca>
Subject: Town of Pelham-26 Chestnut Street-B5/2023P

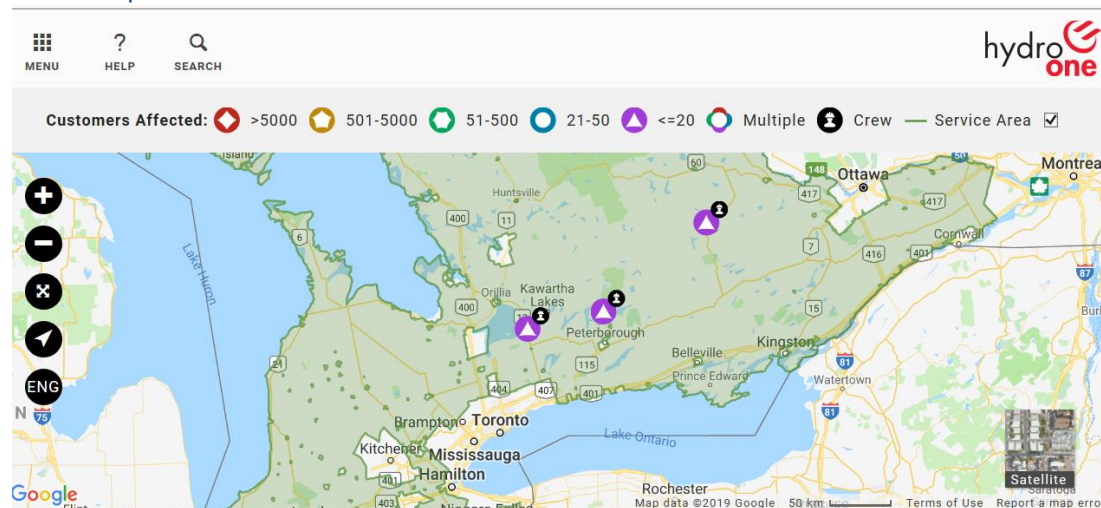
Hello,

We are in receipt of your Application for Consent, B5/2023P dated March 3rd 2023. We have reviewed the documents concerning the noted Application and have no comments or concerns at this time. **Our preliminary review considers issues affecting Hydro One's 'High Voltage Facilities and Corridor Lands' only.**

For proposals affecting 'Low Voltage Distribution Facilities' please consult your local area Distribution Supplier.

To confirm if Hydro One is your local distributor please follow the following link:
<http://www.hydroone.com/StormCenter3/>

Please select “ Search” and locate address in question by entering the address or by zooming in and out of the map



If Hydro One is your local area Distribution Supplier, please contact Customer Service at 1-888-664-9376 or e-mail CustomerCommunications@HydroOne.com to be connected to your Local Operations Centre

Please let me know if you have any questions or concerns.

Thank you,

Dennis De Rango

Specialized Services Team Lead, Real Estate Department
Hydro One Networks Inc.

Tel: (905)946-6237

Email: Dennis.DeRango@HydroOne.com

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David and Mary Jo Drago
 [REDACTED] Pelham St. N
 [REDACTED]

Committee of Adjustment
 Town of Pelham
 20 Pelham Town Square, P.O. Box 400
 Fonthill, ON, L0S 1E3

20 March 2023

Dear Secretary Treasurer,

Please accept this letter to register our objections to the application for consent under the file number B5/2023P concerning the subject parcel being Lot 17 on Plan 716 on the subject lands known municipally as 26 Chestnut St. in the Town of Pelham, and to register our objections to the application for minor variances under the file number A6/2023P and A7/2023P.

We are the owners of the dwelling and land municipally known as [REDACTED] Pelham St. N., situated directly west of the subject property, 26 Chestnut St. Our house was constructed in 1910 and has been our residence, our first and only home, since 1990.

This letter will detail our objections in two parts: Part A: Objections to the Application for Consent Under File Number B5/2023P and Part B: Objections to Application for Minor Variances Under File Number A6/2023P and File Number A7/2023P.

Our objections in each part will specifically address the four Statutory Tests as directed in Subsection 45(1) of the Planning Act which must be considered by The Town of Pelham Committee of Adjustment, and satisfied by the applicant, before an application for zoning variance can succeed.

Sincerely yours,

David and Mary Jo Drago

PART A: OPPOSITION TO APPLICATION FOR CONSENT

Is it minor in nature?

It is concluded that the application for consent involves variances of major nature that have a negative impact on the existing dwelling and lot at 26 Chestnut St. based on the following:

- The lot frontage, lot, yard setbacks, and lot coverage zoning requests are major and **diminish** the existing charm of this area. An examination of the neighbourhood plan shows uniform lots and yard spaces. The proposed lot and development clearly have **negative impacts** on the character and uniformity of this historic neighbourhood plan.



- The proposed lot and the existing development at 26 Chestnut St. demand numerous **reductions** and **increased maximums** to be considered viable, and **negatively impact** the integrity of the Town of Pelham by-laws.
- The proposed lot and dwelling demands **reduction** of adequate side yard setbacks and provides only one open grass space to manage stormwater runoff **negatively impacting** neighbouring properties, particularly the rear yard of 1585 Pelham St., situated directly west of the proposed development.

The development **negatively impacts** the owner's absolute, exclusive and undisturbed title to the limits of their lot lines.

- Reductions and reconfigurations to the lot and dwelling known as 26 Chestnut will provide **inadequate** rear yard space of merely 1.2 meters. There will be no egress from the dwelling to the rear yard space or the side yard space on the north side of the property.
- The proposed elimination of back yard space at 26 Chestnut St. requires the demolition of a magnificent shade tree. The interior side yard reductions of the proposed development risk destroying privacy cedars at the rear of 1585 Pelham St.

The *Planning Justification Brief* prepared for the applicant, demonstrates inherent contradictions in its presentation of the proposed lot and the reductions to 26 Chestnut St. The Planning Justification Brief speaks of the owner “*looking to redevelop the **under-utilized** rear yard*”(*Planning Justification Brief*, 4) of 26 Chestnut St. by eliminating its rear yard completely, then boasts of the desirability of such space in the justification for the new development by claiming that “*the reduced front yard setback will help preserve the more **desirable** rear yard.*” (*Planning Justification Brief*, 7)

It must be noted that the dwelling at 26 Chestnut St. is currently a **rental property**. The proposed reconfigurations to the unit and its lot would certainly test the tolerance of an owner-resident. No back yard amenities, no egress to open yard spaces.

It is concluded that the application for consent and the proposal for 2 Hurricane Rd are too large and that the application should be governed by the provisions that apply to Second Dwelling Units in the Town of Pelham based on the following:

- The application for consent seeks to **double** the permitted maximum lot coverage for accessory from the acceptable 10% as provided in the By-law.
- The site plan submitted with the application for consent depicts a development that is too large in size and scale for the proposed lot. The site plan shows that 45.5 percent of the lot will be utilized by structures – a dwelling unit and an accessory garage.
- The over-scale of the dwelling and lot plan are further complicated by the reduction of required lot area by 8 square meters.
- The proposed dwelling unit is to be 90 square meters and a maximum allowable height of 10.5 meters. The proposed building is out of scale for the lot size. The height of the proposed dwelling and its vertically oriented windows intrude upon the privacy of rear yard and amenity spaces at 1585 Pelham St. to the west and the south facing condominium properties to the north.
- The proposed redevelopment of 2 Chestnut St. completely eliminates its rear yard.
- The large-scale reductions at 2 Chestnut St. requires the removal of a mature shade tree which could otherwise be preserved.
- The application for consent seeks to reduce the front yard set back by 50 percent.

Does it maintain the general intent & purpose of the Zoning By-law?

It is concluded that the application for consent the number of variances requested do not maintain the general intent and purpose of the Zoning By-law based on the following:

- The number of variances requested demonstrate that the proposals for 2 Hurricane Rd. and 26 Chestnut St. can only be achieved by rewriting much of the Zoning By-law.
- The proposals for the proposed severance place 26 Chestnut St. in direct contravention of the Zoning By-laws.
- The proposals for side yard set backs intrude upon the property rights of the owners of 1585 Pelham St. Zoning By-laws are created to protect adjacent properties, not to threaten them.

- The scale and density of the proposed dwelling and its accessory unit seriously diminish the charm and historical nature of the existing neighbourhood. Too few open spaces create a dense, concrete landscape.

Does it maintain the general intent and purpose of the Town of Pelham Official Plan?

- The proposed development clearly perverts the Town of Pelham's interpretation of unutilized urban spaces. The writers of the Official Plan were not promoting eliminating rear yards throughout the urban neighbourhoods. The dwelling unit at 26 Chestnut St. is a rental unit. The rear yard is completely utilized by its tenants – featuring a shed, gazebo, propane fire place and sitting area. While the owner of 26 Chestnut St. utilizes a rear yard somewhere else, the tenants of 26 Chestnut St. fully utilize this private space.
- The proposed lot and dwelling unit are not in character with the existing neighbourhood. The elevation sketch does not conform with the visual nature of this area established in the early Twentieth Century.
- The proposed development does not comply with the Town of Pelham Intensification Plan. The *Official Plan Schedule A1* shows the lot to be outside of the intensification corridor.
- The neighbourhood plan shows an underutilized open space two properties directly south of the subject lands. Future development on this more appropriate space will satisfy the intensification needs in this urban area. Development at 26 Chestnut St. is **unnecessary. (see photo)**
- The proposed severance is not necessary to meet intensification goals in this neighbourhood. This immediate area has already experienced its limit of intensification with 4 new lots created at 3 Hurricane Rd., the creation of the Fonthill Yards, and new construction of semi-detached dwelling units at 1554 Pelham St. A more suitable, unused space currently exists on Chestnut St. and is likely to be developed in the future. The application for consent and its number of variances is not necessary.

PART B: OPPOSITION TO REQUEST FOR VARIANCE

Re: Section 6.16 (a) Parking Requirements

To permit 1 parking space absent of a private garage or carport whereas the by-law requires 1 parking space in a private garage or carport per dwelling unit

1. Is the variance minor?

The application for a variance of this magnitude calls into the question of whether or not this is a minor variance. Application for this variance directly contravenes *By-law 1136 Section 6.22 Reduction of Requirements* which states: “No person shall change the purpose for which any lot, building or structure is used or erect any new building or structure or addition to any existing building or structure **or sever any lands from any existing lot if the effect of such action is to cause the original, adjoining, remaining or new building, structure or lot to be in contravention of this Bylaw.**”

The application for consent places the existing structure, 26 Chestnut St., into contravention of an important existing By-law.

2. Would the granting of the variance result in a development that would be desirable for the appropriate development or use of the applicant’s land or building?

The site plan indicates a drastic reduction in the length of the driveway for the existing unit, 26 Chestnut St., leaving parking visible in the front/side portion of the unit with no carport or garage coverage. As by-laws are in place to prevent this type of planning, then it can be determined that the repercussions from this variance are **not desirable**.

The size of the structure and its accessory structures for the proposed lot call for drastic reductions to 26 Chestnut St. and is, therefore, not appropriate from a planning perspective.

3. Does the variance requested maintain the general intent and purpose of the zoning by-law?

Due to the lack of garage or carport, the variance requested implies a drastic **Reduction of Requirements**. It does not maintain the general intent and purpose of the zoning by-law 1136 Section 6.22. Clearly, by making the existing garage part of the proposed lot, the applicant is reducing the requirements of the existing lot, 26 Chestnut St., to meet the requirements for the proposed lot.

The application for this variance plays a dangerous “shell game” and is manipulating the general intent of the zoning by-law: if the applicant were to build an accessory structure (garage) at 26 Chestnut to satisfy the purpose of Section 6.16(a) of the by-law, the applicant would then require a variance of Section 6.1(d) Lot Coverage (Accessory Uses) for 26 Chestnut St., **in addition to** the variance sought for the proposed lot.

The application for this variance is manipulating the general intent of the zoning by-law. It is, in fact, insulting to the neighbours, where parking at 26 Chestnut was neatly concealed as per the by-law, but no longer will be if this variance is granted. The garage at 26 Chestnut St., by way of a zoning ruse will disappear.

As well, the application for this variance defies the purpose of this zoning by-law: all other new builds on existing lots, specifically 3 Hurricane Rd. and 1422 Pelham Street all have appropriate parking and garages. This begs the question “Why was this demanded of these applicants and not of this applicant?”

4. Does the variance requested maintain the general intent and purpose of the Official Plan (OP)?

The application for this variance seriously risks the integrity of the Town of Pelham Official Plan and its planning methods and guidelines. For the purpose of consistency, what is required of a new lot **must not minimize the requirements for an existing lot**; that is, what is required of a new lot must be consistently applied to all lots in the town. If a garage or carport is demanded by the zoning by-law for new builds on 3 Hurricane Rd. and 1440 Pelham St., then so must it be demanded for 26 Chestnut St. If this puts the unit at 26 Chestnut St. in jeopardy, **then it fails the test and the variance cannot be granted.**

The Town of Pelham's goals of density and intensification as set out in the Official Plan must not be achieved by a Reduction of Requirements as it risks reducing those requirements to nil and failing the Town's promise to "*respect the character of existing development and ensure that all applications for development are physically compatible with the character of the surrounding neighbourhood*" (Town of Pelham Official Plan A2.3.2) and "*to maintain and enhance the character and stability of existing and well-established residential neighbourhoods by ensuring that development and redevelopment is compatible with the scale and density of existing development.*" (Town of Pelham Official Plan A2.3.2)

Re: **14.2(e) Minimum Interior Side Yard**

To permit a minimum interior side yard setback of 1.2m whereas the by-law requires a minimum interior side yard setback of 1.5m

1. Is the variance minor?

A variance of side yard set back directly impacts the property line between the proposed lot and the back of our property at 1585 Pelham St. N.

The proposed driveway would parallel the property line for approximately 15 meters, at a proposed distance of 1.2 meters from the fence and privacy cedar trees separating the properties and only 1 meter from the proposed dwelling unit.

This should be considered a **major variant** in that it allows for very little natural green space for drainage (water) and no area to pile snow for winter driveway clearing.

The proposed site plan indicates an area of approximately 40 square meters of driveway that would be shoveled and piled against the existing cedar trees and fence. With the proposed 1 meter between driveway and dwelling unit, it is unlikely that snow would be piled against the dwelling unit. This will greatly test the resiliency of the cedar trees and the integrity of the fence.

Both the fence and the cedar trees are integral to the privacy of the **much-utilized back yard space at 1585 Pelham St.** The owners of 1585 Pelham St. are not in a position to replace a fence, nor would it be possible to replace the mature cedar trees that offer necessary privacy, greenery, and light and noise reduction.

2. Would the granting of the variance result in a development that would be desirable for the appropriate development or use of the applicant's land or building?

While the applicant deems this variance to be desirable, the issue here is that this variance infringes upon the reasonable setback and risks damage to a privacy fence and mature cedar trees. What used to be a rear yard, is proposed to become a side yard dominated by a driveway.

The driveway running along the property line is **NOT** desirable for the reasons mentioned previously.

It cannot be considered desirable to develop a property that jeopardizes the structures and greenery of the adjacent property, particularly, when these are absolutely vital to the privacy and esthetics of this well-established and well-maintained property.

3. Does the variance requested maintain the general intent and purpose of the zoning by-law?

The intent and purpose of a zoning by-law is to prescribe the front, rear and side yard setbacks, building size, height and use. It speaks to matters such as spacing, privacy, density, light and air and gives the neighbourhood its built form and character.

The built form and character of 1585 Pelham St. relies on its greenery and private spaces. A variance of side yard set backs violates the intent of the existing by-law, as by its very nature was put in place to **protect adjacent properties** from such encroachments and risks to privacy and esthetics.

The pure scale of the proposed dwelling unit, its driveway and patio spaces are driving this motion to grant encroachment. Only a smaller, more reasonable construction would eliminate the need for a request for variance.

Ultimately, the size, scale and density of the proposal for a new lot and new build are raising issues and contradicting the general intents and purposes of zoning by-laws of the Town of Pelham. The application for this variance begs the question: Why does the proposed development have to be of such size, scale and density that it violates the intent and purpose of the zoning by-law and risks damage to structures and trees of a neighbouring property?

It is the burden of the applicant to ensure, beyond doubt that adjacent structures and properties will be preserved. To suggest, as has been in the applicant's Planning Justification Brief, that *"both the retained and severed lot still will maintain adequate rear and side yard landscaped amenity areas, spatial separation for privacy & building maintenance, and open space to manage stormwater runoff"* (Justification Brief 6), does not meet this burden necessary for granting this variance. The site plan shows **NO side yard** to the west of the proposed dwelling and seeks to accommodate its scale and density at the expense of the adjacent property at 1585 Pelham St.

4. Does the variance requested maintain the general intent and purpose of the Official Plan (OP)?

The Town of Pelham Official Plan specifically states: *The primary purpose of the Official Plan is to provide the basis for managing growth that will support and emphasize the Town's unique character, diversity, civic identity, rural lifestyle and heritage features and to do so in a way that has a positive impact on the quality of life and health for the citizens who live and work in Pelham. The Official Plan is the primary planning document that will direct the actions of the Town and shape growth and development and on this basis, this Plan establishes a vision for the future land use structure of the Town. (Town of Pelham Official Plan, A1 THE COMMUNITY VISION)*

It must be emphasized that the spirit of the Official Plan is to emphasize the town's *"heritage features and to do so in a way that has a positive impact on the quality of life...for the citizens who live...in Pelham."* The lots created in the area bordered by Broad St., Pelham St, Hurricane Rd and Chestnut St, are features of the original D'veverado Plan created before the turn of the 20th Century. The dwellings at 1585 Pelham St and 26 Chestnut St. date back to circa 1910. The reconfiguration of 26 Chestnut St. casts a negative on the historical features of what was once the Village of Fonthill.

Furthermore, the Official Plan seeks *"To respect the character of existing development and ensure that all applications for development are physically compatible with the character of the surrounding neighbourhood."* (Town of Pelham Official Plan A2.3.2). The reduction of side yard and back yard setbacks in development proposed at 26 Chestnut St. does not respect *"the character of existing development"* and can easily be deemed **incompatible** *"with the character of the surrounding neighbourhood."*

Re: Section 6.1 (d) Lot Coverage (Accessory Uses)

To permit a maximum of coverage of 20% of the lot area for all accessory buildings whereas the by-law allows a maximum lot coverage of 10% of the lot area for all accessory buildings.

1. Is the variance minor?

This variance is considered to be **major** in that it requests a **doubling** of the maximum coverage of the lot area for all accessory buildings.

2. Would the granting of the variance result in a development that would be desirable for the appropriate development or use of the applicant's land or building?

While the Town of Pelham planning report suggests that the retention of the existing garage on the proposed lot is desirable, the report does not make reference to the fact that with the retention of the existing garage and the size and scale of the proposed dwelling unit, **45.5 percent** of the proposed lot would be occupied by physical structures.

The site plan suggests that the remaining 44.6 percent of the lot space would be mostly driveway and hard surfaced patio areas. Very little open green space is retained as per the site plan. This cannot be deemed desirable or appropriate development from an environment and drainage perspective. The only greenspace left on the proposed lot is to the north of the proposed dwelling unit and the request 1.2 meter strips bordering the property.

Clearly, the size and scale of the proposed dwelling unit, the lack of open green space and the accessory building utilizing 19.2 percent of the proposed building lot pose real drainage concerns for the site itself and the neighbouring properties, **including the proposed 1.27 meter backyard** of 26 Chestnut St.

3. Does the variance requested maintain the general intent and purpose of the zoning by-law?

The density of the proposed lot and dwelling, where structures utilize nearly half of lot space, requires a **major variance** which **doubles** the maximum coverage for all accessory buildings. The granting of a major variance to an important By-law would set a concerning precedence, whereby current and future lot owners could seek application to dominate their properties with undesirable out buildings. If the Town of Pelham is to **double the maximums** set forth in this section of By-law 1136, what other maximums could be doubled as well.

4. Does the variance requested maintain the general intent and purpose of the Official Plan (OP)?

The Town of Pelham Official Plan has, as its goal, to “*respect the character of existing development and ensure that all applications for development are physically compatible with the character of the surrounding neighbourhood*” (Town of Pelham Official Plan A2.3.2) and “*to maintain and enhance the character and stability of existing and well-established residential neighbourhoods by ensuring that development and redevelopment is compatible with the scale and density of existing development.*” (Town of Pelham Official Plan A2.3.2)

Physical compatibility is in question in this application. Here, the developer seeks to “reduce requirements” on the one hand, and to “double the maximums” on the other hand. At what point does one realize that the developer’s vision is **incompatible in scale and density** with respect to the proposed lot itself, and the character of existing development”?

Reducing requirements and doubling maximums risk the creation of landscapes that are “*physically incompatible*” with the character of surrounding neighbourhoods and “*destabilize the character*” of existing and well-established neighbourhoods” – namely, the neighbourhoods of the Old Village of Fonthill, established during the late Nineteenth and early Twentieth Century.

David and Mary Jo Drago
[REDACTED] Pelham St. N
Fonthill, ON L0S 1E3

Committee of Adjustment
Town of Pelham
20 Pelham Town Square, P.O. Box 400
Fonthill, ON, L0S 1E3

17 April 2023

Dear Secretary Treasurer

Please accept this letter as an addendum to my previous letter of opposition to the Application for Consent at 26 Chestnut St.

In light of the implementation of the new Comprehensive Zoning By-law (4481) the following is to be considered by the Committee of Adjustment. Previous arguments are still to be considered; even though many no longer apply, the overall intent of the argument remains.

On 3 April 2023, "The Ontario Land Tribunal approved the order with the result that the Comprehensive Zoning By-law is deemed to have come into force on August 30, 2022." Furthermore, "the Comprehensive Zoning By-law regulates the use of land throughout the Town of Pelham in accordance with Section 34 of the *Planning Act*. The Comprehensive Zoning By-law has been updated to conform to the Town Official Plan, Region of Niagara Official Plan and Provincial legislation. The effect of the Comprehensive Zoning By-law will be improved development parameters that help create a more attractive, prosperous and livable community. (<https://engagingpelham.ca/comprehensive-zoning-by-law-review>).

Be it noted, that in the Town of Pelham press release dated 4 April 2023, director of community planning and development Barbara Wiens stated the following: "With fundamental shifts in the focus of the provincial, regional, and local policy framework since the previous 1987 zoning by-law, Pelham has worked with public consultation, staff and Council to align the Comprehensive Zoning By-law with the current planning policy framework at all levels of government." (<https://engagingpelham.ca/comprehensive-zoning-by-law-review>)

It is clear, therefore, that after one year of serious deliberation and review, public consultation and consultation with all levels of government the Town of Pelham adopted its new Comprehensive Zoning By-law as one that conforms to the Town Official Plan, the Region of Niagara Official Plan and Provincial legislation.

Concerning the Residential R2 Zone

The new Comprehensive Zoning By-law (4481) sub-section 6.2 sets the following Zone Requirements for Single Detached Dwellings:

Minimum Lot Frontage 12.0m

Minimum Lot Area 360m²

Minimum Front Yard 3.0m except 6.0m where there is an attached garage

Maximum Front Yard 6.0m Minimum Side Yard 1.2m

Minimum Corner Side Yard 3.0m

Minimum Rear Yard 7.5m

It is argued, therefore, that these are the requirements that “conform to the Town Official Plan, the Region of Niagara Official Plan and Provincial legislation.” The Town of Pelham has created these requirements to “regulate the use of land, buildings and structures in the Town of Pelham.”

These requirements allow for reasonable development and are implemented to allow for reasonable density in urban areas as determined by the Town of Pelham, Niagara Region and Provincial legislation. The requirements are **minimums**, and, as such, should not be reduced any further. To seek further reduction of these requirement precludes that a proposed lot is **NOT** feasible for consent or building.

Concerning the Application of the Zoning By-law

The new Comprehensive Zoning By-law (4481) is to be applied so that “No person, other than a public authority, shall reduce any lot by conveyance or otherwise so that it does not meet the requirements of this By-law, or if it did not meet the requirements initially, that it is further from meeting them.” [*Town of Pelham Zoning By-law 4481, 1.3(b)*]

It is argued that this direction in the By-law conforms “to the Town Official Plan, the Region of Niagara Official Plan and Provincial legislation” and that the Town of Pelham, therefore, opposes any development that reduces another lot and places that existing lot in non-compliance of the Town of Pelham’s zoning By-laws.

The application of the new Comprehensive Zoning By-law (4481) also dictates that “Except as provided otherwise within a specific zone, accessory buildings and structures not attached to the main building shall:

c) Not be located in any required front yard or the **required exterior side yard**;

e) Have a total lot coverage for all accessory buildings **of not more than 10% in any Residential Zone** and not more than 5% in any other Zone and the maximum lot coverage for all buildings shall not exceed the maximum lot coverage of the zoning category in which the property is located.”

It is argued that this direction in the Comprehensive Zoning By-law (4481) conforms “to the Town Official Plan, the Region of Niagara Official Plan and Provincial legislation” and that the Town of Pelham opposes lots where garages, sheds and other outbuildings occupy a significant portion, **more than 10%**, of the lot. As this exists in the new Comprehensive Zoning By-law (4481), it is also a part of the greater vision of the Official Plan of the Town of Pelham, the Niagara Region and the Province of Ontario.

Concerning File Number: A7/2023P and File Number A6/2023P

As of 3 April 2023, the Application for Consent and Application for Minor Variance at the Subject Land known municipally as 26 Chestnut St. the new Comprehensive Zoning By-law (4481) no longer requires minor variances to heard concerning the following:

Section 6.16(a) “Parking Requirements -NO LONGER REQUIRED

Section 6.1(b) “Location Accessory Uses – NO LONGER REQUIRED

Section 14.2 (d) “Minimum Front Yard - NO LONGER REQUIRED

Section 14.2(e) “Minimum Interior Side Yard – NO LONGER REUIRED

The new Comprehensive Zoning By-law (4481) deems the proposal by the applicant to be within the parameters of the By-law in these four areas. Minor variance is no longer required and the applicant can be deemed in conformity “to the Town Official Plan, the Region of Niagara Official Plan and Provincial legislation.”

As the four former items are now in compliance with the new Comprehensive Zoning By-law, **attention must be directed to the three main areas** in the Application for Consent and Variance that do NOT comply with the new Comprehensive Zoning By-law and are to be considered NON-CONFORMING “to the Town Official Plan, the Region of Niagara Official Plan and Provincial legislation.” The areas of dispute include the following:

1. The applicant’s request to permit a minimum lot area of 350sm whereas the by-law requires a minimum lot area of 360sm
2. The applicant’s request to permit a maximum lot coverage of 20% of the lot area for all accessory buildings whereas the by-law allows a maximum lot coverage of 10% of the lot area for all accessory buildings.
3. The applicant’s request to permit a minimum rear yard setback of 1.2m whereas the by-law requires a minimum rear yard set back of 7.5m.

These are **major** variances and if granted completely eradicate the new Comprehensive Zoning By-law (4481). The sub-sections concerning **MINIMUM LOT AREA, LOT COVERAGE (ACCESSORY USES) and MINIMUM REAR YARD** are the few sub-sections of the former Zoning By-law governing Residential R2 areas not to have been reduced after thorough review,

public consultation and consultation with all levels of government. They are, in a sense, sacrosanct: by their very nature, they are too important, too valuable to be interfered with or altered.

Please refer to previously submitted arguments proving that the application for consent and variance does not pass the Four Tests and, therefore, cannot be granted.

As well, the site plan provided by the applicant shows the relocation of a shed, existing in the back yard of 26 Chestnut, to be relocated to the “exterior side yard” of the reduced property at 26 Chestnut. An exterior side yard is defined as “a side yard immediately adjoining a public street.” The visual illustration provided in the new Comprehensive By-law (4481) clearly defines this.

It is argued that the applicant has mistaken this for an “interior side yard.” The applicant’s proposed placement of the existing shed, as per the site plan, is in violation of the Comprehensive Zoning By-law (4481) and must require application for variance for proposed location. To then place the existing shed within the “interior side yard” would further diminish the property to the south and clearly diminish the patio space at the proposed development. So, there is no place on 26 Chestnut St. to accommodate the shed: not the exterior side yard, not the interior side yard, nor the front yard. This is the consequence of reducing back yard requirements.

Neither the Town of Pelham, the Niagara Region nor the Province of Ontario envision urban zones with no back yards.

Neither the Town of Pelham, the Niagara Region nor the Province of Ontario envision urban zones with lots covered by sheds, garages and other outbuildings.

Neither the Town of Pelham, the Niagara Region nor the Province of Ontario envision urban zones that haphazardly reduce minimum lot sizes to promote density at the expense of character and uniformity.

Neither the Town of Pelham, the Niagara Region nor the Province of Ontario envision urban zones that allow lots to be created while compromising the conformity of an existing lot.

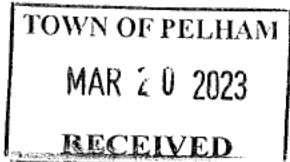
To allow such is to set precedent that will become a banquet feast for residents and developers throughout the town. It will have serious repercussions concerning the character and beauty of the established urban areas in the Town of Pelham.

To quote Barbara Wiens, the new Comprehensive Zoning By-law is designed to “help create a more attractive, prosperous and livable community.”

It is for these reasons, and the reasons previously submitted, that consent and variance cannot be granted at 26 Chestnut St.

Sincerely yours,

David and Mary Jo Drago



In response to the proposed variances for 26 Chestnut St. Fonthill,

File Number: B5/2023P Lot 17 on Plan 716

I Cheryl Lapalme who resides at

████ Chestnut St. in Fonthill absolutely decline the proposed variances and new build on 26 Chestnut St. Fonthill.

I have lived here for eight years.

When I moved here the street was quiet and quaint. There have been many changes in Fonthill, Pelham in the past eight years. I understand the need for change as the town continues to grow and evolve.

This, however, is totally unnecessary and in my opinion, is self-serving.

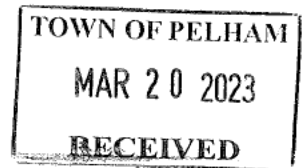
There not enough space to build a house on the proposed lot. Not to mention the removal of all the trees and wild life. This new build encroaches close to my property line. It is disruptive not to mention many other concerns.

Attached is a list of my concerns:

- Too much traffic on Hurricane Rd.
This is an accident waiting to happen.
- Parked cars all along Hurricane Rd and in front of our houses for visitors.
- The new propose garage to be rebuilt is too close to the property line legally it should be 1.2 m from that space.
- 8 proposed variances?? Too many to accommodate.
- How is this respecting the character and stability of existing and well-established residential neighbourhood.
- If we accept this proposal, it sets the bar for future developments.
- Not enough drainage on Hurricane Rd.
- Removal of a telephone pole.

Please consider my concerns for this proposal.

Cheryl Lapalme
████ Chestnut St.
Fonthill, On
L0S 1E3
████



To the Secretary Treasurer:

To Whom it may Concern:

We are writing in response to File# B5/2023P and Files A62023P, A7/2023P the subject land of 26 Chestnut St. Pelham, Lot 17 on Plan 716.

We the undersigned object to the variances proposed for a second Dwelling on the lot of 26 Chestnut St., which is not big enough for two dwellings within the zoning bylaws in place. These bylaws are here for reasons such as these, so houses do not get to close to each other which can cause problems with disputes between neighbours down the road. Not to mention fire and storm damages. We liked our quiet neighbourhood before all these changes, now we put up with parked cars on both side of the roads on streets to narrow to drive through. Speeding cars all hour's day and night. We say no to these proposed variances and changes to made.

Robert and Victoria McCauley

■ Chestnut St. Pelham

Robert, E, McCauley.
March, 17 2023

Victoria McCauley
March 17, 2023