

## Committee of Adjustment AGENDA

CofA-04/2018

April 10, 2018

4:00 pm

Town of Pelham Municipal Office - Council Chambers

20 Pelham Town Square, Fonthill

Pages

1. Attendance
2. Call to Order, Declaration of Quorum and Introduction of Committee and Staff
3. Disclosure of Pecuniary Interest and General Nature Thereof
4. Requests for Withdrawal or Adjournment
5. Applications for Minor Variance
  - 5.1 File A6/2018P - Craig Tumath 1
    1. Town of Pelham Planning Department
    2. Town of Pelham Building Department
    3. Town of Pelham Public Works Department
    4. Town of Pelham Fire Department
    5. Niagara Region Comments
6. Applications for Consent
7. Minutes for Approval 9

Committee of Adjustment Minutes, October 3, 2017
8. Adjournment

April 10, 2018

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

**Re: Minor Variance Application A6/2018P (C. Tumath)**  
**2371 Kimberly Court, Pelham**  
**Part of Lot 17, Concession 3, 59R-7233 Part 4**  
**Roll No. 2732 010 008 06425**

The subject land is located on the east side of Kimberly Court, lying north of Sixteen Road, and known municipally as 2371 Kimberly Court in the Town of Pelham.

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

- **Section 7.2 d) "Minimum Front Yard"** seeking 12m whereas 20m is required to facilitate the construction of an extension to an existing barn with no change in livestock capacity; and
- **Section 7.7 d) "Maximum Building Height"** seeking 5.2m whereas 3.7m is required to facilitate the construction of an accessory building to the dwelling.

### **Applicable Planning Policies**

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

The Provincial Policy Statement (PPS) designates the subject land within the 'Prime Agricultural 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).

#### Greenbelt Plan, 2017

The subject parcel is designated 'Tender Fruit & Grape Lands' within the Greenbelt Plan's Protected Countryside.

Policy 3.1.2 states that for lands falling within the *specialty crop areas* of the Protected Countryside, all types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected.

Regional Official Plan (Consolidated, August 2014)

The Regional Official Plan designates the subject parcel as ‘Unique Agricultural Area’ as part of the Protected Countryside lands in the Greenbelt Plan.

Pelham Official Plan, 2014

The Town Official Plan designates the subject parcel as ‘Specialty Agricultural’.

Policy B2.2.1 states that the purpose of this designation is to implement the Provincial Greenbelt Plan.

Pelham Zoning By-law Number 1136 (1987)

The Town Zoning By-law zones the subject land ‘Agricultural’ (A).

Section 7.2 Requirements for Agricultural Uses

d) Minimum Front Yard 20m Request = 12m

Section 7.7 Regulations for buildings accessory to dwellings permitted in the A zone

d) Maximum Building Height 3.7m Request = 5.2m

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

Minor Variance Test	Explanation
Is the variance minor in nature?	<p>Reducing the minimum front yard setback to allow for the extension of an existing barn will not adversely impact the neighbourhood as large distance still separates the barn from the nearest residential dwellings. The proposed addition is actually further from the property line than the existing barn footprint.</p> <p>Increasing the maximum building height for a detached garage is minor in nature given the rural context. The nearest neighbouring dwellings are quite far from the subject site and any impact by a garage of this stature are undermined by the existing hydro towers which surround the site.</p>
Is the variance desirable for the development or use of the land?	<p>Reducing the minimum front yard setback for the barn extension is desirable for the land because it will provide enhanced usability for the existing horse barn – notably; a wash stall, tack room, feed room and storage space.</p> <p>Permitting the accessory building height at 5.2m is desirable for the land because it will allow for the installation of a typical roof gable which is preferred over a flat roof in this case. Given the</p>

From the Department of



	<p>footprint of the structure, meeting the required height limit at a feasible pitch would prove challenging. Allowing for the detached accessory building at this height would enhance the usability of the subject land and not adversely impact the area given the rural context.</p>
<p>Does the variance maintain the general intent and purpose of the Official Plan?</p>	<p>The minimum front yard reduction for the barn extension does not compromise the Official Plan's intent because the horse barn addition is not hindering any agricultural operation which is still the primary use of this property.</p> <p>The accessory building height variance will not compromise the Official Plan's intent because accessory uses to a dwelling are permitted and the development will not obstruct the agricultural potential of the land or expand into any <i>natural heritage features</i>.</p>
<p>Does the variance maintain the general intent and purpose of the Zoning By-law?</p>	<p>Reducing the minimum front yard setback for the barn extension still upholds a reasonable setback from the existing unopened road allowance and will not compromise safety or off-site externalities.</p> <p>Increasing the maximum accessory building height is a minor deviation from the Zoning By-law requirement and will not negatively impact surrounding property as the current rural context provides large spatial separation between adjacent land uses.</p>

On March 15<sup>th</sup> 2018, a notice was circulated to agencies directly affected by the proposed application including internal Town departments (i.e. Public Works, Building, etc.) and all assessed property owners within 60 metres of the property's boundaries.

To date, the following comments have been received:

- Public Works Department (April 5, 2018)
  - No comments.
- Building Department (March 22, 2018)
  - All necessary permits are required prior to construction commencing.
- Fire & By-law Services Department (March 16, 2018)
  - No comments.
- Niagara Region Planning & Development Services (April 4, 2018)
  - No objection. Provided no new plumbing fixtures are included in the addition.

Public Comments:

- No comments were received.

## Planning Comments

Planning staff note that the property is 9.32 ha in land area, is farmed and also contains a rural residential dwelling.

The subject land is located on the east side of Kimberly Court in between Roland Road and Sixteen Road. The surrounding land uses are:

- North – Significant woodland
- East – Agricultural
- South – Agricultural, Hydro One corridor
- West – Agricultural, rural residential dwelling

As per the applicant's site plan, the following is proposed; a small house addition, the relocation of an existing shed, a barn addition and a new detached garage. The latter two triggering zoning relief for minimum front yard setback and accessory building height, respectively.

The subject land is a significant distance away from the nearest residential neighbours to the west and south, further no public comments were received objecting to the requested variances.

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

The authorization of the following recommended minor variances is not expected to generate negative impacts on adjacent uses or the community at large. Consequently, Planning Staff recommend that Application File Number A6/2018P be approved as follows:

### Section 7.2 Regulations for Agricultural Uses

d) Minimum Front Yard	12m	<b>Approve</b>
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### Section 7.7 Regulations for Accessory Buildings

d) Maximum Building Height	5.2m	<b>Approve</b>
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Submitted by,



Curtis Thompson  
Planner, B.URPI

Reviewed by,

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



**File:** A6/2018P

March 22, 2018

**Address:** 2371 Kimberely Court, Pelham

**Owner:** Craig Tumath

**Agent:** Kelly King and Martin Ruhe

Nancy Bozzato  
Town Clerk/Secretary-Treasurer

The Building Department offers the following comment,

- All necessary permits are required prior to construction commencing.

Belinda Menard  
Building Intake/Plans Examiner  
Community Planning & Development

## Judy Sheppard

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**From:** Matthew Sferrazza  
**Sent:** Thursday, April 05, 2018 12:35 PM  
**To:** Curtis Thompson  
**Cc:** Andrea Clemencio; Judy Sheppard; Nancy Bozzato  
**Subject:** A6/2018P - 2371 Kimberley Court

Hi Curtis,

Please note that Public Works' has no comments for the above stated minor variance application. Please let me know if you require anything else.

Thanks,  
Matt



**Matt Sferrazza**  
Engineering Technologist  
Public Works

e: [msferrazza@pelham.ca](mailto:msferrazza@pelham.ca)  
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## Judy Sheppard

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**From:** William Underwood  
**Sent:** Friday, March 16, 2018 1:11 PM  
**To:** Sarah Leach  
**Cc:** Nancy Bozzato; Judy Sheppard  
**Subject:** File A6/2018P Variance

Hey Sarah,

Fire has no comments with regards to the 2371 Kimberley Court by-law variance.

Regards,

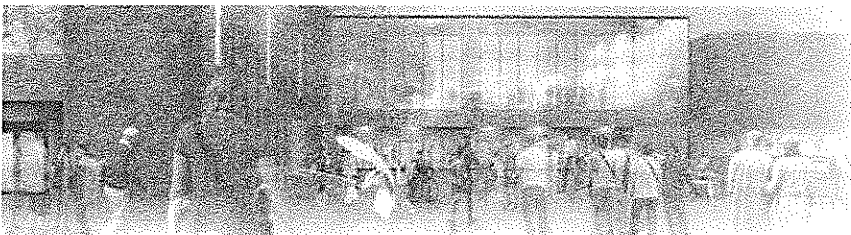
Will



William Underwood, C.E.T., CFEI  
Fire Prevention Officer  
Fire & By-Law Services

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April 4, 2018

By Email Only

Our File: MV-18-020

Nancy J. Bozzato  
Secretary-Treasurer, Committee of Adjustment/Town Clerk  
Town of Pelham  
20 Pelham Town Square, P.O. Box 400  
Fonthill, ON L0S 1E0

Dear Ms. Bozzato:

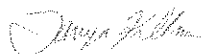
Re: Application for Minor Variance  
Applicant: Craig Tumath  
Location: 2371 Kimberley Court, Pelham  
Town File: A6/2018P

Private Sewage System staff has reviewed the minor variance application to permit an addition onto the existing barn. Additions are also proposed for the existing dwelling, of which septic comments would be required prior to any building permits being issued.

No permit information was found for the existing sewage system currently servicing the property. The existing 2-compartment septic tank was exposed and is located on the east side of the dwelling. No visible defects were noted with the existing sewage system and the proposed barn addition meets with the required setbacks.

Therefore, since the minimum setback requirements from the sewage system have been confirmed, we have no objection to the minor variance application for the proposed barn addition, provided that no washrooms or bedrooms are included. Please note is there are any increases to existing sewage flows to the site, it would require an upgrade of the existing sewage system to meet current Building Code requirements.

Yours truly,



Tanya Killins  
Inspector, Private Sewage Systems (BCIN #36235)

**Meeting #:** CoA-10/2017  
**Date:** Tuesday, October 3, 2017  
**Time:** 4:00 pm  
**Location:** Town of Pelham Municipal Office - Council Chambers  
 20 Pelham Town Square, Fonthill

**Members Present** Wayne Lockey  
 Brian DiMartile  
 John Klassen  
**Staff Present** Nancy Bozzato  
 Judy Sheppard

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

Noting that a quorum was present, Chair Wayne Lockey, called the meeting to order at approximately 4:00 pm. The Chair read the opening remarks to inform those present on the meeting protocols and he introduced the hearing panel and members of staff present.

3. **Disclosure of Pecuniary Interest and General Nature Thereof**

There were no pecuniary interests disclosed by any of the members present.

5. **Applications for Minor Variance**

**5.1 A32/2017P - John & Colleen Keizer**

**Purpose of Application:**

The subject land is zoned Agricultural "A" in accordance with Pelham Zoning By-law 1136(1987), as amended. The applicant is seeking relief of the following sections:

7.4(c) - Maximum Lot Coverage - seeking 10.1% whereas 10% is allowed; and

7.7(d) - Minimum Front Yard - seeking 12.93 metres whereas 13 metres is required; and

7.4(f) - Minimum Side Yard - seeking 5.58 metres whereas 9 metres is required.

Relief is sought to facilitate construction of an addition to the single family dwelling.

**Representation:**

Colleen and John Keizer, registered owners, appeared on behalf of the application.

**Correspondence Received:**

1. Town of Pelham Planning Department
2. Town of Pelham Building Department
3. Town of Pelham Fire and By-law Services Department
4. Region Comments

**Applicant Comments**

The owner, Mr. Keizer, had no comments.

**Public Comments**

There were no comments from the public.

**Members' Comments**

There were no comments from the members.

**Moved By Brian DiMartile**

**Seconded By John Klassen**

**Application for relief of the following sections:**

**7.4(c) - Maximum Lot Coverage - seeking 10.1% whereas 10% is allowed, is hereby GRANTED.**

**7.7(d) - Minimum Front Yard - seeking 12.93 metres whereas 13 metres is required, is hereby GRANTED.**

**7.4(f) - Minimum Side Yard - seeking 5.58 metres whereas 9 metres is required, to facilitate construction of an addition to the single family dwelling, is hereby GRANTED.**

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

- 1. The variance is minor in nature in that adequate open space is available for drainage and rear yard amenity and the setback mirrors**

that of the existing dwelling.

2. The general purpose and intent of the Zoning By-Law is maintained in that adequate open space / amenity area is maintained and there are no negative impacts on the neighbours, noting that the drainage can be fully accommodated on site.

3. The intent of the Official Plan is maintained in that no agricultural land is being impacted and there are no negative impacts on the neighbours.

4. The proposal is desirable for the appropriate development and/or use of the land in that it improves the indoor living space and maintains adequate outdoor amenity space and there are no negative impacts on the neighbours.

5. This application is granted without prejudice to any other application in the Town of Pelham.

6. No objections were received from commenting agencies or abutting property owners.

7. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.

The above decision is subject to the following conditions:

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

Carried

## 6. Applications for Consent

### 6.1 B30/2017P - 4 High Street Inc.

#### Purpose of Application

Application is made for consent to a right-of-way in perpetuity over Part 2 to the benefit of Part 4 for use as a shared driveway for ingress and egress purposes. Parts 1, 2 & 3 are to be retained for continued use of the dwelling known municipally as 1022 Pelham Street.

#### Representation

Christian Venditti, authorized agent, appeared on behalf of this application.

### **Correspondence Received**

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

### **Applicant's comments**

Mr. Venditti advised the Committee that, due to the layout of the units, the Right-of-Way must be extended another 20 feet to the south therefore, he requested an adjournment to facilitate this change.

### **Members Comments**

Neither staff nor the members were made aware of this change prior to the Hearing, therefore, it was decided that the application would need to be resubmitted with an amended sketch and the appropriate rescheduling fee. The members agreed that the application be adjourned.

**Moved By John Klassen**

**Seconded By Brian DiMartile**

**That Application B30/2017P (4 High Street Inc.) be adjourned; and**

**That an amended sketch be resubmitted and the application be amended; and**

**That a rescheduling fee be applied.**

**Carried**

### **7. Minutes for Approval**

Prior to approving the minutes, the Committee made a motion to appoint a staff member as Assistant Secretary-Treasurer.

**Moved By Brian DiMartile**

**Seconded By John Klassen**

**That, pursuant to the *Planning Act*, Section 44(8), Judy Sheppard be appointed to the Town of Pelham Committee of Adjustment as the Assistant Secretary-Treasurer and Acting Secretary-Treasurer in the absence of the Secretary-Treasurer.**

**Carried**

**Moved By John Klassen  
Seconded By Wayne Lockey  
That the minutes of the September 12th, 2017, Committee of Adjustment  
Hearing be approved.**

**Carried**

**8. Adjournment**

**Moved By Brian DiMartile  
Seconded By John Klassen  
BE IT RESOLVED THAT this Meeting of the Committee of Adjustment  
Hearing be adjourned until the next regular meeting scheduled for  
November 7, 2017 at 4:00 pm.**

**Carried**

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Wayne Lockey, Chair

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Secretary-Treasurer, Nancy J. Bozzato