



Meeting #: CoA-01/2018
Date: Tuesday, January 9, 2018
Time: 4:00 pm
Location: Town of Pelham Municipal Office - Council Chambers
 20 Pelham Town Square, Fonthill
Committee of Adjustment Hearing Minutes
Members Present James Federico
 Brian DiMartile
 Donald Cook
Members Absent Wayne Lockey
 John Klassen
Staff Present Nancy Bozzato
 Judy Sheppard

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

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

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

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

4. **Requests for Withdrawal or Adjournment**

There were no requests for withdrawal or adjournment received.

5. **Applications for Minor Variance**

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

Purpose of the Application

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

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

Representation

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

Correspondence Received

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

Applicant's Comments

No comment were received.

Public Comments

No comment were received.

Members Comments

No comment were received.

Moved By Brian DiMartile

Seconded By Donald Cook

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

The above decision is based on the following reasons:

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

use of the land in that the addition increases the livable floor space and maintains adequate rear and side yard amenity space.

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

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

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

The above decision is subject to the following conditions:

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

Carried

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

Purpose of the Application

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

Representation

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

Correspondence Received

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

Applicant Comments

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

Public Comments

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

Members Comments

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

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

A member asked Mr. Tyler how long has he lived at this location.

Mr. Tyler advised he has lived in this location for 20 years.

Moved By Donald Cook

Seconded By Brian DiMartile

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

The above decision is based on the following reasons:

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

adverse impacts;

2. The general purpose and intent of the Zoning By-Law is maintained in that adequate distance is maintained between the nearest residential dwelling and no adverse impacts are anticipated;
3. The intent of the Official Plan is maintained in that the Specialty Agricultural designation is designed to implement the Greenbelt Plan and no adverse impacts are anticipated;
4. The proposal is desirable for the appropriate development and/or use of the land in that it will facilitate the development of an expanding agricultural operation.
5. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance respecting Section 7.2(e) Minimum Side Yard requesting 42.8 metres, be approved;

The above decisions are subject to the following conditions:

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

Carried

Moved By Donald Cook

Seconded By Brian DiMartile

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

REFUSED.

The above decision is based on the following reasons:

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

buildings is considerably tied to the increased setback requirement.

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

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

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

Carried

5.3 A3-2018P - David & Lynda Spackman

Purpose of the Application

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

Representation

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

Correspondence Received

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

Applicant Comments

No comments were received.

Public Comments

No comments were received.

Members Comments

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

Moved By Brian DiMartile

Seconded By Donald Cook

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

GRANTED.

The above decision is based on the following reasons:

- 1. The variance is minor in nature in that no adverse impacts are anticipated.**
- 2. The general purpose and intent of the Zoning By-Law is maintained in that sufficient setback is maintained to the woodland and stable top-of-bank.**
- 3. The intent of the Official Plan is maintained in that the requested variance will have minimal impact on the landscape.**
- 4. The proposal is desirable for the appropriate development and/or use of the land in that the rear yard amenity area is being maintained and the installation of an in-ground pool is considered to be part of the rear yard amenity area.**
- 5. This application is granted without prejudice to any other application in the Town of Pelham.**
- 6. No objections were received from commenting agencies or abutting property owners.**
- 7. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.**

The above decision is subject to the following conditions:

- 1. That all necessary pool/building permits shall be circulated to the NPCA for their review and approval to incorporate any mitigation measures, deemed necessary.**
- 2. That all necessary building permits must be obtained prior to construction commencing, to the satisfaction of the Town of Pelham**

Chief Building Official.

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

Carried

7. Minutes for Approval

Moved By James Federico

Seconded By Donald Cook

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

Carried

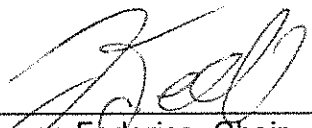
8. Adjournment

Moved By Donald Cook

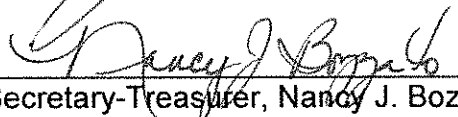
Seconded By Brian DiMartile

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

Carried



James Federico, Chair



Secretary-Treasurer, Nancy J. Bozzato