

Meeting #: CoA-05/2017
Date: Tuesday, May 2, 2017
Time: 4:00 pm
Location: Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

Members Present James Federico
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 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.

4. **Requests for Withdrawal or Adjournment**

There were no requests for withdrawal or adjournment received.

5. **Applications for Minor Variance**

5.1 File A14/2017P - Andrea Noreen Stubbings

Purpose of Application:

The subject land is zoned Residential "R2" in accordance with Pelham Zoning By-law 1136(1987), as amended. The applicant is seeking relief of section 6.1(c) to allow a height of 5.8 metres whereas 3.7 metres is allowed, to construct a 1.5 storey garage.

Representation:

Andrea Noreen Stubbings, registered owner, 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

Comments:

The owner, Andrea Stubbings, had no comments.

Public Comments

There were no comments received from the public.

Members Comments

The Members had no comments.

Moved By John Klassen**Seconded By James Federico**

Application for relief from section 6.1(c) of the Zoning By-law No. 1136(1987) to allow a height of 5.8 metres whereas 3.7 metres is allowed, to construct a 1.5 storey garage is hereby:

GRANTED

The above decision is based on the following reasons:

- 1. The variance is minor in nature given the urban context and scale, orientation and distance from the street which helps it appear secondary to the primary dwelling and no negative impacts are anticipated by the adjacent neighbors.**
- 2. The general purpose and intent of the Zoning By-Law is maintained given the situational context while still standing smaller in scale to the principle dwelling and there is plenty of open space on the site. The added height will not adversely impact the residential nature of the lot or the surrounding natural areas of the Niagara Escarpment.**
- 3. The intent of the Official Plan is maintained in that it encourages uses which are compatible with the character of the neighbourhood.**
- 4. The proposal is desirable for the appropriate development and/or use of the land in that the variance will allow for appropriate storage**

of personal belongings without causing undue hardships 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 are required prior to construction commencing for the new accessory building, to the satisfaction of the Town of Pelham Chief Building Official.

Carried

5.2 File A15/2017P - Todd Dube and Sheri Sykes

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 section relief of the following:

Section 7.7(a) - "Maximum Lot Coverage" to allow for 5.5% of lot coverage whereas 1% is allowed for accessory building, and provided the overall lot coverage does not exceed 10%.

Section 7.7(b) - "Minimum Side Yard & Rear Yard" requesting 2.44 metres from the east lot line, whereas 3 metres is required.

Section 7.7(d) - "Maximum Building Height" requesting 4.31 metres height whereas 3.7 metres is allowed.

Representation:

Todd Dube and Sheri Sykes, 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

Comments:

The owners, Todd Dube & Sheri Sykes, had no comments.

Ms. Sykes inquired regarding clarification of the drainage comment in the Planning Report. Ms. Bozzato advised that those concerns will be answered by the Director of Public Works.

Public Comments

There were no comments received from the public.

Members Comments:

Member Federico addressed the comments that were in the Planning Report regarding a shipping container that is located near the eastern lot line.

Mr. Dube advised that he plans to address those concerns with the appropriate Town staff.

Moved By James Federico

Seconded By John Klassen

Application for relief from the following Zoning By-law No.

1136(1987) provisions in Section 7.7:

- 1. Relief from Section 7.7(a) - to permit a maximum lot coverage of 5.5% whereas 1% is allowed for accessory buildings, and provided the overall lot coverage does not exceed 10%; is hereby: GRANTED**
- 2. Relief from Section 7.7(b) to permit a minimum side yard setback of 2.44 metres from the east lot line, whereas 3 metres is required; is hereby: GRANTED**
- 3. Relief from Section 7.7d) to permit a maximum building height of 4.31 metres whereas 3.7 metres is allowed; is hereby: GRANTED**

The above decisions are based on the following reasons:

- 1. The variance is minor in nature in that sufficient distance separates the lot line, providing access to exterior walls therefore, there are no negative impacts anticipated.**
- 2. The general purpose and intent of the Zoning By-Law is maintained in that adequate open space is maintained and there are no negative impacts on the rural residential nature of the lot or the surrounding countryside.**
- 3. The intent of the Official Plan is maintained in that there are no negative impacts for any natural heritage feature or neighbouring**

properties.

4. The proposal is desirable for the appropriate development and/or use of the land in that relief will offer more flexibility in terms of property usage.

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 decisions are subject to the following conditions:

1. That all necessary building permits are required prior to construction commencing for the new accessory building, to the satisfaction of the Town of Pelham Chief Building Official.

2. That the applicant must submit a comprehensive overall lot grading and drainage plan to demonstrate that drainage neither relies nor negatively impacts neighbouring properties. This is to pay close attention to the east lot line and is to include any side yard swales and consideration for the impact the reduced side yard setback will have on the effectiveness of these swales, to the satisfaction of the Director of Public Works.

Carried

5.3 File A16/2017P - Daniel and Stephanie Tasich

Purpose of Application:

The subject land is zoned Residential "R1" in accordance with Pelham Zoning By-law 1136(1987), as amended. The applicant is seeking relief of section 6.1(c) for a maximum height of 5.4 metres whereas 3.7 metres is required to facilitate construction of an accessory storage building.

Representation:

Daniel and Stephanie Tasich, registered owner and Jack Barnardi, authorized agent, 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

Comments:

The agent, Mr. Barnardi, provided the following comments:

- They agree with the recommendation from the planning department
- The main reason for the proposed design is to minimize the impact on the larger trees to the south

Public Comments:

Robert Hougham, Haist Street, commented on the size of his property, the cost of landscaping and the fact that he had it professionally landscaped with cedar trees and advised that had that proposed structure been there when he purchased his property, he would not have purchased it. He objects to the proposed development because it takes away from their view. Mr. Hougham further commented that there are no trees on that proposed development and there is a second dwelling unit in the basement.

Mr. Barnardi responded to Mr. Hougham's comments by saying that the Zoning By-law controls this development and it is all accessory to a single family dwelling. Mr. Barnardi commented that if there is an assumption that something commercial is going to be developed there, it is not true.

Jeff Reuter commented on the height of the back of the building and the fact that it is a sloping lot which will minimize the impact and he requested that the committee take that into consideration.

Mr. Barnardi advised that factors such as a sloping lot and minimizing height impacts will be considered during the design of the development.

Esther Hougham, Haist Street, inquired regarding the maximum lot coverage for the height and commented that the proposed development is 3 feet from her lot and the fence is 6 feet height which means it will be 3 time the height of her fence which provides very little usable backyard space. She further commented that it has windows.

Members Comments

Mr. Klassen inquired as to whether the Planning Staff has visited the property and taken a look at the view that is in dispute.

Mr. Bernardi commented that in order to further minimize the impact of the view, the applicant would have to remove trees and they would receive much controversy for removing trees.

Mrs. Tasich commented that they will be doing professional landscaping to make the whole yard to flow and look lovely with a seating area. Mrs. Tasich advised that they are retiring and the intent is to have this as their final retirement home/retreat.

Mr. Bernardi commented that the elevations are the same as the south with a gable roof and there will be no windows on that side.

Esther Hougham said she would like to reiterate that the building will be 3 times the length of her house.

Mr. Federico asked Ms. Hougham to remain at the podium and asked her about the trees on her side, whether it is her intent to keep the cedar trees that she had planted during the landscaping and allow them to grow 20 feet.

Ms. Hougham said yes, she plans to keep the cedar trees and let them grow.

Mr. Lockey, Chair, commented that a person has a right to the view to their property line and the proposed building, in our opinion, does not provide a danger to any neighbours or to passing traffic. The height would be needed because of the size of the building, to get proper slope on the roof.

The members had no further comments.

Moved By John Klassen

Seconded By James Federico

Application for relief from section 6.1(c) of the Zoning By-law No. 1136(1987) to increase the maximum height to 5.4 metres whereas 3.7 metres is required, to facilitate construction of an accessory storage building is hereby:

GRANTED

The above decision is based on the following reasons:

1. The variance is minor in nature as the proposed increase in height helps the accessory building to appear secondary to the primary dwelling given the urban context and scale, orientation and distance from the street, therefore no negative impacts are anticipated by the

adjacent neighbors or the users of the Steve Bauer Trail behind the lots.

2. The general purpose and intent of the Zoning By-Law is maintained as the requested height increase allows for adequate open space given the situational context while still standing smaller in scale to the principle dwelling and will not negatively impact the residential nature of the lot or the open space areas to the west (Steve Bauer Trail).

3. The intent of the Official Plan is maintained in that there is some light vegetation scattered around the rear of the lands which buffer the neighbours of the Steve Bauer Trail and users of the trail itself.

4. The proposal is desirable for the appropriate development and/or use of the land in that it will allow for appropriate storage of personal belongings using a smaller building footprint without causing any adverse impacts on the surrounding neighbourhood. It is noted that the accessory building is well designed and will fit into the residential context and is complimentary to the existing dwelling.

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

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

The above decision is subject to the following conditions:

1. That all necessary building permits are required prior to construction commencing for the new accessory building, to the satisfaction of the Town of Pelham Chief Building Official.

2. That a Niagara Peninsula Conservation Authority permit is required, prior to the issuance of a building permit.

Carried

5.4 File A17/2017P - Lonny and Kathleen Demers

Purpose of Application:

The subject land is zoned Agricultural "A" in accordance with Pelham Zoning By-law 1136(1987), as amended. The applicants are seeking relief of section 7.7(d) to permit a maximum building height of 4.3 metres whereas 3.7 metres is allowed, to construct a detached garage.

Representation:

Lonny and Kathleen Demers, registered owner, 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

Comments:

Mr. Demers advised that they had just applied for the building permit for the house last week.

Public Comments

There were no comments received from the public.

Members Comments

Mr. Klassen questioned whether the applicant is building the garage as a single dwelling apart from the house.

Mr. Demers confirmed he was building a garage as a single dwelling apart from the house.

The members had no further comments.

Moved By James Federico

Seconded By John Klassen

Application for relief from section 7.7(d) of the Zoning By-law No. 1136(1987) to increase the maximum building height to 4.3 metres whereas 3.7 metres is allowed, to facilitate construction of a detached garage, is hereby:

GRANTED

The above decision is based on the following reasons:

- 1. The variance is minor in nature given the rural context and scale, orientation and distance from the street which helps it appear secondary to the surrounding dwellings and no negative impacts are anticipated by the adjacent neighbors.**
- 2. The general purpose and intent of the Zoning By-Law is maintained given the rural context and mature woodlot encompassing the structure and adequate open space is maintained**

and will not adversely impact the rural residential nature of the lot or the surrounding countryside.

3. The intent of the Official Plan is maintained in that it permits uses which are compatible with the agricultural character.

4. The proposal is desirable for the appropriate development and/or use of the land in that it will allow for improved storage and use of the owner's property without causing any adverse impacts to 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 the location of the proposed garage must be on the east side of the house and there will be no living area / plumbing included within it, to the satisfaction of the Region of Niagara Planning and Development Services, Private Sewage Systems.

2. That the applicant must obtain a building permit for the main use dwelling concurrent with the construction of the garage, to the satisfaction of the Chief Building Official.

3. That all necessary building permits are required prior to construction commencing for the new accessory building, to the satisfaction of the Chief Building Official.

Carried

5.5 File A18/2017P - Bastiaan and Margaretha Brouwer

Purpose of Application:

The subject land is zoned Agricultural "A" in accordance with Pelham Zoning By-law 1136(1987), as amended. The applicants are seeking relief of section 7.4(f) to decrease the minimum side yard to 2.5 metres whereas 9 metres is required, to facilitate the construction of an addition to the existing dwelling.

Representation:

Bastiaan and Margaretha Brouwer, 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

Comments:

Mr. and Mrs. Brouwer had no comments:

Public Comments

There were no comments received from the public.

Members Comments

The Members had no comments.

Moved By James Federico

Seconded By John Klassen

Application for relief from section 7.4(f) of the Zoning By-law No. 1136(1987) to reduce the minimum Side Yard setback to 2.5 metres whereas 9 metres is required, to facilitate construction of an addition to the existing dwelling, is hereby:

GRANTED

The above decision is based on the following reasons:

1. **The variance is minor in nature in that storm water runoff will be managed onsite and will not cause any negative impacts on neighbours.**
2. **The general purpose and intent of the Zoning By-Law is maintained in that it maintains a satisfactory setback while maintaining a more usable amenity area.**
3. **The intent of the Official Plan is maintained in that it will not detract from the primary role of the agricultural area to protect land suitable for agricultural production and will have no adverse impact.**
4. **The proposal is desirable for the appropriate development and/or use of the land in that it increases the livable floor space and provides more practical rear 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 the applicant must obtain an Niagara Peninsula Conservation Authority (NPCA) Work Permit prior to the issuance of a building permit, to the satisfaction of NPCA.**
- 2. That the applicant must circulate the building permit plans to Niagara Region Private Sewage Systems staff to ensure no increase of sewage flows, and that written confirmation be provided to the Chief Building Official.**
- 3. That all necessary building permits must be obtained prior to construction commencing for the new accessory building, to the satisfaction of the Chief Building Official.**

Carried

5.6 File A19/2017P - Jack and Kathryn Benes

Purpose of Application:

The subject land is zoned Residential 1 "R1" in accordance with Pelham Zoning By-law 1136(1987), as amended. The applicant is seeking relief of section 13.2(g) to decrease the minimum rear yard setback to 5.2 metres whereas 7.5 metres is required, to permit construction of an addition to the existing dwelling.

Representation:

Jack Miroslav and Kathryn Ann Benes, 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

Comments:

Mr. Benes advised that the entire first floor of the dwelling will be made accessible.

Public Comments

There were no comments received from the public.

Members Comments

The Members had no comments.

Moved By John Klassen

Seconded By James Federico

Application for relief from section 13.2(g) of Zoning By-law No. 1136(1987) to decrease the minimum rear yard setback to 5.2 metres whereas 7.5 metres is required, to permit construction of an addition to the existing dwelling, is hereby:

GRANTED

The above decision is based on the following reasons:

- 1. The variance is minor in nature in that the impact is less impactful in scale and proximity.**
- 2. The general purpose and intent of the Zoning By-Law is maintained.**
- 3. The intent of the Official Plan is maintained in that it will facilitate the appropriate incremental development of an existing house while providing adequate outdoor amenity area.**
- 4. The proposal is desirable for the appropriate development and/or use of the land in that it will provide a more flexible building footprint and allow the owners to construct an accessible kitchen.**
- 5. This application is granted without prejudice to any other application in the Town of Pelham.**
- 6. No objections were received from commenting agencies or abutting property owners.**
- 7. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.**

The above decision is subject to the following conditions:

- 1. That all necessary building permits are required prior to construction commencing for the new accessory building, to the satisfaction of the Chief Building Official.**

Carried

7. Minutes for Approval

Moved By John Klassen

Seconded By Wayne Lockey

That the minutes of the April 4, 2017, Committee of Adjustment Hearing be approved.

Carried

8. Adjournment

Moved By James Federico

Seconded By John Klassen

BE IT RESOLVED THAT this Meeting of the Committee of Adjustment Hearing be adjourned at 5:21 p.m. until the next regular meeting scheduled for June 6, 2017 at 4:00 p.m.

Carried

Wayne Lockey, Chair

Secretary-Treasurer, Nancy J. Bozzato