

Committee of Adjustment MINUTES

Committee of Adjustment Hearing 2/2015

Meeting Type : Committee of Adjustment Hearing

Date : Tuesday, May 05, 2015

Location : Town of Pelham Municipal Building - Council Chambers

Minutes

Attendance

Brian DiMartile Chair

Don Cook, Member

John Klassen, Member

Town Clerk / Secretary Treasurer

- Nancy J. Bozzato

Staff

- Kristina Braun
- Judy Sheppard

Applicants/Representatives:

- Rob Lucchetta;
- Stephen Kaiser (Warden)

Interested Citizens

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

Chair DiMartile declared that a quorum was present and called the meeting to order at approximately 4:00 p.m. Chair DiMartile read the prescribed opening remarks.

Disclosure of Pecuniary Interest and General Nature Thereof

No pecuniary interests were disclosed by the members present.

File A2/2015P - U. Lucchetta

Purpose of the Application

Construction Ltd.

(Applications for Minor Variance)

The subject land is zoned Residential Multiple 1 RM1-233 in accordance with Pelham Zoning By-law 1136(1987), as amended. The applicant is requesting relief of Section 16.3(f) to allow an interior side yard setback of 1.5 metres whereas 3 metres is required to facilitate the construction of street townhouse dwellings.

Representation

Mr. Robert Lucchetta appeared on behalf of this application.

Correspondence

Town of Pelham Consolidated Planning Report

- Niagara Peninsula Conservation Authority
- Town of Pelham Public Works Department
- Town of Pelham Building Department
- Laurence & Philippe Roptus
- Danny Kasunic??

Comment

Mr. Robert Lucchetta addressed the committee, noting that the initial application was adjourned due to the adverse comments relating to the proposed covered deck construction. This revised application has increased the rear yard setback distances, thus removing any variances relating to the decks and resulting in the inclusion of only the side yard setback deficiency, which is in keeping with most townhouse blocks within the Town of Pelham. The proposed bungalow townhouses, 1600 square feet, will have double car garages that will reduce concerns regarding parking. This amended proposal will also be less intrusive to neighbouring properties. There will be a fence for privacy between their property and rear properties, and to further improve privacy, the units are proposed as bungalows as opposed to two-storey units. The deck heights will be lower and set back to a distance permitted in the zoning requirements, to minimize impact. There were no trees to be preserved. In conclusion, Mr. Lucchetta stated that in this subdivision, the zoning requirement for setbacks is four feet for single family homes, so the distance between houses is 8-10 feet, thus he suggested that the proposed setbacks are consistent with the surrounding neighbourhood.

Mr. Dan Kasunic, Quaker Road, advised that his concerns have been resolved and as such, withdrew his letter of objection.

Committee Input

Some concern was expressed that the Town will be unable to maintain the storm sewer laterals for the rear yard catch basins should this reduction in side yard be approved. Mr. Lucchetta advised that the Director of Public Works has reviewed the application and proposed plans and has not expressed any concerns in this regard. Further, he noted that there will be no structures situated within the lands encumbered by the easement, including footings for the dwelling units.

Resolution #CA20150505.1001

Moved By: John Klassen Second By: Brian DiMartile

THAT application A2/2015P by U. Lucchetta Construction Ltd. for relief of Section

16.3(f) to allow an interior side yard setback of 1.5 metres whereas 3 metres is required is hereby granted.

Reasons:

1. The variance is minor in nature given that there will be sufficient amenity space provided around each of the street townhouse blocks, thus allowing space for maintenance and preservation of privacy.
2. The proposal is desirable for the appropriate development and/or use of the land, as exterior and rear yard setbacks will be maintained, thus resulting in no negative impacts on existing surrounding properties.
3. The general purpose and intent of the Zoning By-Law is maintained as the reduction in the interior side yard setback is of an appropriate scale, and the proposed use is permitted.
4. The intent of the Official Plan is maintained as this use is permitted in the Urban Living Area/Built Boundary designation.
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 relating to the side yard setback reductions.
7. The applicant is aware of the precautions highlighted by the Town of Pelham Public Works Department relating to service laterals, as detailed in their April 29, 2015 correspondence.

Resolution #CA20150505.1002

Moved By: Don Cook Second By: John Klassen

THAT the motion be amended by adding the following condition to the variance approval:

THAT the Chief Building Official be satisfied that no footings for the subject dwelling units shall be installed within the easements that are in favour of the Town of Pelham.

Carried

Resolution #CA20150505.1003

Moved By: John Klassen Second By: Don Cook

THAT application A2/2015 on behalf of U. Lucchetta Construction Ltd., for relief of Section 16.3(f) to allow an interior side yard setback of 1.5 metres whereas 3 metres is required is hereby granted, subject to the following condition:

1. THAT the Chief Building Official be satisfied that no footings for the subject dwelling units shall be installed within the easements that are in favour of the Town of Pelham.

Reasons:

1. **The variance is minor in nature given that there will be sufficient amenity space provided around each of the street townhouse blocks, thus allowing space for maintenance and preservation of**

- privacy.
2. **The proposal is desirable for the appropriate development and/or use of the land, as exterior and rear yard setbacks will be maintained, thus resulting in no negative impacts on existing surrounding properties.**
 3. **The general purpose and intent of the Zoning By-Law is maintained as the reduction in the interior side yard setback is of an appropriate scale, and the proposed use is permitted.**
 4. **The intent of the Official Plan is maintained as this use is permitted in the Urban Living Area/Built Boundary designation.**
 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 relating to the side yard setback reductions.**
 7. **The applicant is aware of the precautions highlighted by the Town of Pelham Public Works Department relating to service laterals, as detailed in their April 29, 2015 correspondence.**

Carried

**File A3/2015P -
Sandra, Karey &
Jacquelyn
Warden**

(Applications for Minor
Variance)

Purpose of the Application

The subject land is zoned Agricultural A in accordance with Pelham Zoning By-law 1136(1987), as amended. The applicant is requesting relief of Section 7.4(f) to allow a minimum side yard setback of 3.05 metres whereas 9 metres is required. The applicant is requesting relief for both the east and west side yard setbacks to allow for the construction of a new dwelling and will be demolishing all existing buildings on the site.

Representation

Mr. Stephen Kaiser, authorized agent, appeared on behalf of this application.

Correspondence

Town of Pelham Consolidated Planning Report

- Niagara Peninsula Conservation Authority
- Town of Pelham Public Works Department
- Town of Pelham Building Department
- Dr. David Nicholson

Comment

Mr. Kaiser advised that he also represents the proposed purchasers, with the sale scheduled for closing on July 1st. An unconditional offer is in place for the property.

He stated that Kaiser Homes will be constructing the home and that the design process has begun. He noted that the purpose of the application is to change the side yards to give more room to set the house on the lot, noting that the current by-law has the minimum frontage of 150 feet. The existing parcel has a frontage of 120 feet in width, and the zoning requirement for side yards is 9 metres, which would mean that

there would be only a 60-foot wide building envelop for a dwelling. He is proposing 10 feet on both sides to allow space for a home with a 100 foot width, similar to other new houses on this street. To support this Mr. Kaiser indicated that in this area new larger houses are being built and that a neighbouring house is 130 feet wide.

There are residential uses on both sides of property, Mr. Kaiser indicating that to the east is a new build, and another recent build to the west overlooking a pond. There remains some limited farming in this area as well. The intent of the purchasers is to build a home to fit with the new character of the area. It was noted that the parcel is sloped to the rear. Mr. Kaiser has met with the Niagara Peninsula Conservation Authority and noted that there are some constraints on the lot for top of slope considerations and septic installations. Property owners to the east and west have been contacted and Mr. Kaiser noted that the correspondence submitted by Dr. Nicholson is correct in that this lot was part of a severance, but the application actually increased the size of this parcel. Mr. Kaiser noted that the character of Ridgeville is suited to the proposed dwelling and that this proposal will be more congruent with the larger homes now established. Contrary to Dr. Nicholson's submission that this is a subversion, Mr. Kaiser suggested that this opinion is not supported by the Planner given that this construction will bring the property more in tune with the character of the area.

Public Comment

Mr. Knol, purchaser, was present and submitted that it is his belief that this proposal will fit in with the neighbourhood. He advised that he spoke directly with property owners to the east, west and north and all were happy with the proposal and supportive to make it suitable for the area.

Committee Input

In response to a question by Committee, Mr. Kaiser advised that the subject parcel is one acre in size, and that the previous severance cited in correspondence resulted in an increase in the lot size to bring it into conformity with by-law requirements for parcels using private septic systems. No new lot was created as a result of the previous severance.

Member Klassen suggested that due to the slope of the parcel, the drainage plan be designed by a Professional Engineer to ensure it is designed properly. Mr. Kaiser noted that for any building permit, a drainage plan is required, however he did agree that they could comply with this suggestion. Some discussion ensued regarding the timing for approval, and whether it would be prudent to tie the final approval with the occupancy permit, to ensure the drainage plan has been adhered to, with Mr. Kaiser indicating that when obtaining a building permit, he would enter into securities posted with building permit which is then subsequently tied to having the building permit finalized prior to occupancy. He also indicated that lot grading outside of the urban area is not necessarily the same as in an urban area. Some discussion also ensued regarding the potential to register the drainage plan on title so as to ensure future owners cannot change the drainage, leaving them no recourse in the event of flooding.

Mr. Kaiser noted that the lot runs from the northern boundary from Pancake Lane, southerly and falls to the valley land system which is away from the houses in the vicinity. Because of the soil compilation, there would be little draining going to the valley, but there is no intent to direct water so as to adversely impact other properties.

Mr. Kaiser acknowledged the concerns of the Committee relating to drainage, and indicated that he is aware of all of the requirements in this regard. Further, he noted that without the need for a variance, this discussion would not be taking place. However, Committee noted that the reduction to a 10 foot setback may be excessive and could have an impact on drainage plans so the matter is relevant to the variance sought. It was noted that the Niagara Peninsula Conservation Authority has not submitted any concerns.

Mr. Kaiser advised that the dwelling will be constructed to fit the character of the neighbourhood and that they will have a constrained building envelop due to the slope of land. There are existing driveways on both sides of the property and Mr. Kaiser again reviewed the similar dimensions of neighbouring houses to demonstrate how this proposal will fit with the character.

Resolution #CA20150505.1004

Moved By: Don Cook Second By: John Klassen

THAT Application A3/2015P on behalf of Sandra Warden, Karey Warden and Jacquelyn Warden, for relief of Section 7.4(f) to allow a minimum sideyard setback of 3.05 metres, whereas 9 metres is required, is hereby granted, subject to the following conditions:

- 1. THAT prior to issuance of a building permit, a Grading and Drainage Plan, prepared by an Ontario Land Surveyor or an Ontario-Licensed Professional Engineer be submitted for review and approval by the Director of Public Works.**
- 2. THAT a detailed sewage system design be submitted for review and approval by the Niagara Region Development Services Department, and that written approval be submitted to the Town prior to issuance of a building permit.**

Reasons:

- 1. The variance is minor in nature, as the impact on adjacent properties will be minimal as there will be sufficient amenity space around the proposed dwelling, preserving privacy between adjacent properties.**
- 2. The general purpose and intent of the Zoning By-Law is maintained as the reduction in side yard is of an appropriate scale for the area.**
- 3. The intent of the Official Plan is maintained, with the use being permitted in the Specialty Agricultural and Greenbelt Natural Heritage Overlay designations.**

4. **The proposal is desirable for the appropriate development and/or use of the land as shadowing onto adjacent properties will not increase, and the agricultural character of the area will be maintained.**
5. **This application is granted without prejudice to any other application in the Town of Pelham.**

Carried

**Minutes for
Approval**

Resolution #CA20150505.1005

Moved By: John Klassen Second By: Don Cook

MOVED THAT the minutes of the Committee of Adjustment Hearing 1/2015 held on 2015/04/08 be adopted as printed, circulated and read.

Carried

Adjournment

There being no further business, the Chair declared the hearing adjourned.

B. DiMartile, Chair

Nancy J. Bozzato, Town Clerk/Secretary-Treasurer

Date Approved

Hearing Chair