

May 8, 2019

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

**Re: Minor Variance Application A13/2019P**  
**540 Canboro Road, Pelham**  
Part of Lot 10, Concession 9, Part 3 on 59R-9667  
**Roll No. 2732 010 014 10205**

The subject land is located on the south side of Canboro Road, lying west of Centre Street, legally described above and known municipally as 540 Canboro Road 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 7.4 f) "Minimum Side Yard"** seeking 7.33m to the west whereas 9m is permitted

The variance will allow for the construction of a westerly addition to the existing 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 4.5 states that all existing uses are permitted, including single dwellings on existing lots of record, provided they were zoned for such prior to the Greenbelt Plan coming into force. Expansions to existing buildings which bring the use more into conformity with this Plan are permitted so long as new municipal services are not required and the addition does not expand into key natural heritage / hydrologic features.

The proposed addition does not conflict with Greenbelt Plan policy.

Niagara Region Official Plan (Consolidated, August 2014)

The Regional Official Plan designates the subject land 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'. The purpose of this designation is to implement the Greenbelt Plan and recognize the importance of specialty croplands. Policy B2.1.2 states (among other uses) one single detached dwelling is permitted on a vacant lot of record. The proposed variance has minimal impact on the horizontal footprint of the existing dwelling on the subject land.

Pelham Zoning By-law Number 1136 (1987)

The Town Zoning By-law identifies the subject parcel as 'Agricultural' (A).

Section 7.4 Requirements for dwellings

f) Minimum Side Yard 9m Request = 7.33m (west)

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
1. The variance is minor in nature.	Permitting the west minimum side yard setback at 7.33m is minor overall because storm water runoff will still be managed on-site, adequate separation between dwelling units is maintained and it preserves the more valuable and sizable rear yard from building encroachment.  No public comments were received for this application.
2. The variance is desirable for the development or use of the land.	The proposed dwelling exercises a footprint which encroaches upon the standard 'A' zone minimum side yard setback of 9m. The property is fairly narrow when compared to standard agricultural (non-rural residential) parcels. The variance offers enhanced living space but maintains in staff's opinion, an acceptable building setback and is considerate towards preserving the balance of the property's land.
3. The variance maintains the general intent and purpose of the Official Plan.	Reducing the side yard setback maintains the intent of the Official Plan because it will not detract from the primary role of the <i>Specialty Agricultural</i> area to protect land suitable for agricultural production.
4. The variance maintains the general intent and purpose of the Zoning By-law.	Reducing the westerly side yard setback maintains the general intent of the Zoning By-law in so far as sufficient amounts of open space, amenity area remain on the property including spatial separation between neighbouring dwellings and adequate area for drainage purposes.

On April 8<sup>th</sup> 2019, 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 18, 2019)
  - No comments.
- Building Department (April 9, 2019)
  - A building permit is required prior to construction commencing.
- Niagara Region Planning & Development Services (April 23, 2019)
  - No objections.
- Niagara Peninsula Conservation Authority (April 25, 2019)
  - No objections.

No public comments were received.

### Planning Comments

Planning staff note that the property is 0.63ha (1.55ac) in land area, is not farmed and is considered to be a rural residential lot.

The subject land is surrounded by:

- North – Rural residential
- East – Rural residential
- South – Significant Woodlands
- West – Rural residential

The subject land is a reasonable distance away from neighbours in regards to total setback distance between these rural residential dwellings. Storm water runoff is not expected to negatively impact the principle dwelling, or neighbouring properties. Adequate amenity area and open space is preserved on the property, and the addition helps preserve the more sizable and usable land area remaining on 540 Canboro Road.

The property falls within the Regulated Areas of the NPCA, though the agency provided no objections to the variance.

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 minor variance is not expected to generate negative impacts for adjacent uses or the community at large. Consequently, Planning Staff recommend that Application File Number **A13/2019P** be **approved**, subject to the following conditions:

**THAT**



- All necessary building permits be obtained prior to construction commencing.

Submitted by,



Curtis Thompson  
Planner, B.URPI

Reviewed by,



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