

May 8, 2019

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

Re: Minor Variance - Application A14/2019P
753 Foss Road, Pelham
Plan 16 Lot 22, NP 703; RP 59R-8830 Part 1
Roll No. 2732 010 016 12400

The subject land is located on the north side of Foss Road, lying east of Church Street, legally described above, and known municipally as 753 Foss Road.

The subject land is zoned 'Agricultural' (A) in accordance with Pelham Zoning By-law 1136 (1987), as amended. The proposed accessory building requires zoning relief through a minor variance application as follows:

- **Section 7.7 d) "Max Accessory Building Height"** seeking 5.25m, whereas 3.7m is permitted.

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 accessory building does not conflict with Greenbelt Plan policy.

Regional 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 no impact on the horizontal footprint of the structure on the subject land because it deals with building height.

Town of Pelham Zoning By-law No. 1136 (1987), as amended

The subject land is zoned 'Agricultural' (A) according to the Zoning By-law. Section 7 of the 'A' zone permits one single detached dwelling and accessory buildings, among other uses.

Section 7.7 Requirements for buildings and structures accessory to dwellings

d) Maximum Building Height 3.7m Request = 5.25m

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.	Increasing the accessory building height to 5.25m is minor given the rural context. No negative impacts are anticipated by the adjacent neighbors as over 100m separates the nearest residential neighbour from the building site. The setback of the building minimizes the impact of its height on nearby properties by placing it to the rear of lot, in between the active railway and Gerry Berkhout Trail.
2. The variance is desirable for the development or use of the land.	The variance request to increase the accessory building height is desirable for the property as it allows for enhanced storage and use of the facility. The adjacent dwelling to the southeast is setback over 100m and no adverse impacts are anticipated on surrounding lands.
3. The variance maintains the general intent and purpose of the Official Plan.	The proposed use of a building accessory to a single detached house is permitted in the 'Specialty Agricultural' designation of the Official Plan and the policy does permit uses which are compatible with agriculture. The increase in accessory building height will not compromise the objective of the Official Plan. The variance is appropriate given the site's rural context and meets the general intent of the Town Official Plan policies.

4. The variance maintains the general intent and purpose of the Zoning By-law.	The size of the proposed accessory building's height to 5.25m is appropriate given the rural context. Ample amount of open space is available on the site, thus the increased height will not adversely impact the agricultural character of the area or the surrounding countryside. The variance maintains the intent of the Zoning By-law with respect to accessory building massing, siting and locational scale.
--	---

Agency / Public Comments

On April 8th 2019, a notice was circulated to agencies directly affected by the proposed application including internal Town departments and all assessed property owners within 60 metres of the property's boundaries.

To date, the following comments have been received:

- Niagara Peninsula Conservation Authority (February 20, 2019)
 - No objections.
- Niagara Region Planning & Development Services (April 25, 2019)
 - No record was found for the existing sewage system servicing the principle dwelling.
 - During our inspection, no visual defects were observed of the septic system (west of the dwelling).
 - No objections, provided no washrooms, plumbing or living space is included.
- Public Works Department (April 18, 2019)
 - No comments.
- Building Department (April 9, 2019)
 - A building permit will be required.

Public Comments received to date:

- D. Ireland
 - Supports the minor variance request.
- M & J Angus
 - Supports the minor variance request.

Planning Comments

The subject lands are surrounded by an active railway, public trail and rural residential lots beyond that. The proposed minor variance to increase the accessory building height should not facilitate any adverse impacts with regards to land use incompatibility, storm water runoff or privacy etc.

Planning Staff is of the opinion that the application satisfies the Planning Act. The subject application is consistent with Provincial policies, the Regional Official Plan, and complies with the general intent of the Town Official Plan and Zoning By-law. The proposal is compatible with adjacent uses and the rural agricultural character of the area.

The authorization of the minor variance is not expected to generate negative impacts on adjacent uses or the community at large. Consequently, Planning Staff recommend that Application File Number A14/2019P **be approved**. Subject to the following:

THAT

- No plumbing or additional living space be installed within the proposed garage .

Submitted by,



Curtis Thompson
Planner, B.URPI

Approved by,



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