

September 10, 2019

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

**Re: Minor Variance Application A23/2019P**  
**405 Canboro Road, Pelham**  
Concession 8, Part of Lot 8  
**Roll No. 2732 020 013 08901**

The subject land is located on the north side of Canboro Road, lying west of Effingham Street, legally described above and known municipally as 405 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 7.7 a) "Max (Accessory) Lot Coverage"** to allow 4% lot coverage for accessory structures whereas 1% is permitted;

The proposal is for the construction of a 37.2 m<sup>2</sup>, 1-storey pool cabana.

### **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 parcel 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'. Policy B2.1.2 states (among other uses) one single detached dwelling is permitted on a vacant lot of record.

Pelham Zoning By-law Number 1136 (1987)

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

Section 7.7 Requirements for buildings and structures accessory to dwellings

a) Maximum Lot Coverage Required: 1% Request: 4%

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.	The proposed accessory lot coverage of 4% is minor overall, despite the parcel size; the variance can be accommodated with minimal impact.
2. The variance is desirable for the development or use of the land.	The proposed accessory lot coverage of 4% is desirable for the use of the land given the parcel size, the relief will offer an enhanced rear yard amenity area and allow more flexibility in terms of property usage and thus, desirability.
3. The variance maintains the general intent and purpose of the Official Plan.	The proposed accessory lot coverages maintain the general intent of the Official Plan in that no negative impacts will be created for any natural heritage feature or neighbouring properties.  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.	Increasing the maximum accessory building lot coverage maintains the general intent of the Zoning By-law in that adequate open space remains and will not bother the existing septic field and storm water runoff will be required to be contained on the property as per Town standards.

On August 15<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 (August 16, 2019)
  - No comments.
- Building Department (September 3, 2019)
  - No comments.
- Niagara Region Planning & Development Services (September 6, 2019)
  - No record was found for the existing septic system. A site inspection confirmed a single chamber septic tank located at the northwest side of the house. The location of the leaching bed was indeterminate and although no visual defects were observed, it could not be confirmed that the system met the minimum (Ontario Building Code) setback of 5 m from the proposed structure.
  - New information was provided which confirmed the leaching bed is located on the west side of the dwelling and away from the pool cabana. Land is also available for a replacement sewage system in the future, when required.
  - No objections.

No public comments were received at the time of this writing.

### Planning Comments

Planning staff note that the property is 0.41 ha (1 ac) in land area, is not farmed and is considered to be a rural residential lot at this time.

The subject land is surrounded by:

- North – Agricultural
- East – Rural residential dwellings
- South – Rural residential dwellings
- West – Rural residential dwellings

The subject land is a reasonable distance away from the nearest neighbours and the proposed accessory building is secondary in orientation and scale to the principle dwelling (being located in the rear yard). A large amount of open amenity space remains available for the residents. For these reasons, increasing the allowable accessory building lot coverage will not negatively affect any neighbouring properties. Reasonable spatial separation is maintained through setbacks and storm water runoff shall be contained on-site. The Region of Niagara has no objections to the proposed accessory structure in terms of any negative impacts on the private sewage system function.

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 A23/2019P be **approved**.



Prepared by:



Curtis Thompson  
Planner, B.URPI

Approved by:



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