

Committee of Adjustment AGENDA

09/2019

September 10, 2019

4:00 pm

Town of Pelham Municipal Office - Council Chambers

20 Pelham Town Square, Fonthill

Pages

1. Attendance
2. Call to Order, Declaration of Quorum and Introduction of Committee and Staff
3. Disclosure of Pecuniary Interest and General Nature Thereof
4. Requests for Withdrawal or Adjournment
5. Applications for Minor Variance

5.1 A22/2019P - 250 Canboro Road

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1. Town of Pelham Planning Department
2. Town of Pelham Public Works
3. Town of Pelham Building Department
4. Niagara Region Planning & Development Services
5. Michael Woods
6. Quartek Group Inc.

5.2 A23/2019P - 405 Canboro Road

20

1. Town of Pelham Planning Department
2. Town of Pelham Public Works
3. Town of Pelham Building Department
4. Niagara Region Planning & Development Services

6. Applications for Consent

7. Minutes for Approval

8. Adjournment

September 10, 2019

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

Re: Minor Variance - Application A22/2019P
250 Canboro Road, Pelham
Concession 8, Part Lot 4
Roll No. 2732 020 010 11000

The subject land is located on the south side of Canboro Road, lying east of Effingham Street, legally described above, and known municipally as 250 Canboro Road.

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

- **Section 7.7 a) "Max (Accessory) Lot Coverage"** seeking 4.3 %, whereas 1 % is permitted for the detached garage and shed.
- **Section 7.7 d) "Max (Accessory) Building Height"** seeking 6 m, whereas 3.7 m is permitted for the detached garage only.

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 lot coverage variance has impacts on the horizontal footprint of the structure on the subject land, while the building height deals with the vertical scale.

Policy A2.1.2 states the objective of the Official Plan is to make planning decisions that consider the health and integrity of the broader landscape as well as long term cumulative impacts on the ecosystem. Planning decisions should also restrict and regulate land uses which could impact the water quality and hydrological and hydrogeological characteristics of watercourses, aquifers and wetlands.

Policy B2.2.7 states that the Canboro Road corridor is considered to be an area of significant potential for enhancement as a rural promenade. Council recognizes this area as being located within a highly vulnerable aquifer and the policies of this Plan with respect to such feature will be considered in the assessment of any *Planning Act* approval.

Policy E1.5 states that in making a determination of whether a variance is minor as required by the *Four Tests*, the Committee of Adjustment will have more regard for the degree of impact which could result from the relief and less regard to the magnitude of numeric or absolute relief sought by the applicant. In addition, applicants should be prepared to demonstrate a need for the variance on the basis that the subject zoning provision is not warranted in a particular circumstance, causes undue hardship, or is otherwise impossible to comply with.

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

- | | | |
|----------------------------|-------|-----------------|
| a) Maximum Lot Coverage | 1 % | Request = 4.3 % |
| d) Maximum Building Height | 3.7 m | Request = 6 m |

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 6 m does not appear minor given the rural residential context. The 6 m building height, when paired with the proposed footprint, may negatively impact adjacent neighbours, particularly to the west.



	Increasing the max accessory lot coverage to 4.3 % is minor overall given the parcel size and the ability for the subject lands to continue handling stormwater runoff without negatively impacting adjacent lands, subject to an adequate Grading and Drainage Plan, as requested by Town engineering staff. Furthermore, adequate land is available to safely manage private wastewater (sewage) and for landscaped amenity area purposes.
2. The variance is desirable for the development or use of the land.	The variance request to increase the accessory building height and accessory lot coverage is desirable for the property as it allows for enhanced storage and use of both the facility and property. The Site Plan indicates three (3) trees from the proposed garage footprint area will be relocated to the front yard.
3. The variance maintains the general intent and purpose of the Official Plan.	<p>Given the size of the subject land, the proposed lot coverage should not, in and of itself conflict with any notable Official Plan policy, assuming the height and scale of the building is appropriate.</p> <p>The requested increase of lot coverage and building height was not accompanied by a thoroughly demonstrated need on the basis that the subject zoning provision is not warranted, causes undue hardship, or is otherwise impossible to comply with (Policy E1.5). The 'Design Justification Letter' provided with the application states the existing (258 m² / 2773 ft²) of accessory buildings on site do not meet the owner's storage needs. 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 to 6 m may compromise the objective of the Official Plan, particularly Policy B2.2.7 which speaks to the rural character of the Canboro Road corridor. The variance for a 6 m accessory building height is inappropriate given the neighbourhood's local context and does not meet the general intent of the Town Official Plan policies.</p>
4. The variance maintains the general intent and purpose of the Zoning By-law.	The size of the proposed accessory building's height to 6 m is inappropriate given the immediate rural residential context and the associated building footprint proposed at that height. Ample amounts of open space are available on the site to accommodate the existing private sewage system, landscaped amenity area for the residents and stormwater runoff resulting from an increased accessory building lot coverage.

Agency / Public Comments

On August 15th 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:

- Building Department (September 3, 2019)
 - Separate building permits will be required, one for the existing 5 m x 9.1 m storage shed at the southwest corner of the property and the proposed detached garage addition.
- Niagara Region Planning & Development Services (January 27, 2019)
 - A sewage system was installed in 2007.
 - The Site Plan submitted incorrectly shows the tile bed location underneath the existing driveway. It is actually located near the southeast corner of the property.
 - No objections, provided no plumbing or living space is included and the reconfigured gravel driveway does not extend any closer to the raised tile bed than what it is currently.
- Public Works Department (August 16, 2019)
 - That the applicant submits a Drainage Plan addressing how the stormwater runoff from the addition will be addressed to ensure that drainage does not negatively impact neighbouring lands.

Public comments were received from a neighbouring resident and their Planning consultant which are summarized as follows:

- The Design Justification Letter submitted by the applicant does not address potential impacts.
- Concern for light trespass and excessive noise given building size that it could be a possible automotive service / repair shop.
 - These uses are prohibited in the Zoning By-law and is speculation.
- The proposed lot coverage for accessory buildings is 5.2%. (This includes the attached garage)
 - Attached garages do not contribute towards the accessory building lot coverage sum calculated in Section 6.1, but instead the overall lot coverage sum found in Section 7.7.
- Even though the proposed garage is not located within the *required front yard (13 m)* zoning setback, it functions and appears to be within the front yard given where the dwelling was decidedly built.
 - True, however it's location in what appears to be the front yard complies with the Zoning By-law.
- The size and scale of the proposed garage will impact sightlines of 252 Canboro Road and erode the rural character of Canboro Road.
 - The residential dwelling that preceded the existing residence at 252 Canboro Road was recently torn down to make way for a newer dwelling that is setback considerably further from Canboro Road. Unfortunately, dwellings located further from public roads with deep front yard setbacks have other negative consequences, namely the obtrusiveness associated with neighbouring accessory buildings which appear to be located in front yards, despite full compliance with all zoning setbacks. If the new dwelling (at 252 Canboro Road) maintained its historically short front yard setback like much of the neighbourhood, these adverse impacts could have been significantly reduced.

Planning Comments

The subject lands are 0.4 ha (1 ac) in land area, is not farmed and is considered to be a rural residential lot. The subject lands fall outside of the NPCA Regulated Screening area and are surrounded by:



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

The applicant's agent submitted a 'Design Justification Letter' stating that current residential zones are permitted to have 10% accessory building lot coverage. However, this is not the case because the subject lands are zoned *Agricultural* and therefore is limited to a 1% accessory building lot coverage. The justification also states that the current (258 m² / 2773 ft² of) detached and attached garages do not meet the owner's storage needs.

The proposed minor variance request to increase the maximum accessory lot coverage to 4.3 % should not facilitate any adverse impacts with regards to land use incompatibility, storm water runoff, *normal farm practices* or privacy etc. pending satisfactory building *Elevation Plans*. However, the proposed request to increase the accessory building height to 6 m may facilitate an adverse impact with regards to land use incompatibility given the scale being proposed in conjunction with the requested height.

Planning staff have only been advised verbally that the owner intends to store a motorhome within the garage. However, the largest motorhomes available (known as Class A), cannot exceed a height of 4.15 m (13.6'). Understanding this, and that flat roof designs already maximize ceiling height, the proposed 6 m height is not warranted. A maximum building height of 5 m would be more than capable of housing a Class A motorhome and be much less obtrusive in scale for the neighbourhood, assuming certain architectural features are included, particularly strategically placed window openings.

In terms of the requested relief for an increase height limit to 6 m for the proposed accessory building, Planning staff are not convinced this part of the application satisfies all *four tests* of a minor variance under the *Planning Act*, as detailed above. The requested height limit only satisfies the test for desirability. Furthermore, the applicant has not provided any reasonably thorough grounds, or planning justification as to why the increase is warranted. Although the topography of this neighbourhood plays to the applicant's advantage in that Canboro Road is relatively higher in relation to the proposed garage site, the scale and massing of the garage will still be of considerable size and the adjacent neighbour to the west is also at roughly the same grade. Knowing this, the proposed accessory building height should be refused or alternatively, reduced, and the final design should architecturally complement the public and private realms by positively reinforcing a human-scaled, rural character neighbourhood along the Canboro Road corridor. Planning staff acknowledge the use of large amounts of glazing (windows) may not be practical or desirable for the applicant due to privacy, security and cost. However, symmetrically proportionate windows located along the upper northeast & northwest walls, at an amended building height, should be practical and would satisfy Town Planning staff.

It should be noted that an existing 41.8 m² (450 ft²) detached garage / shed was discovered in the rear yard without a building permit. The application for a building permit on this structure also requires a slight increase in lot coverage to comply with the Zoning By-law, albeit a lesser percentage totalling 1.35 %.

Planning Staff is of the opinion that the application for increased lot coverage satisfies the Planning Act. The same part of the 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. However, the proposed accessory building height of 6 m does not share the same qualities in the opinion of Planning staff.

Planning Staff is of the opinion that if the applicant can satisfy the proposed conditions, then part of the application will meet the four minor variance tests laid out by the *Planning Act*, be consistent with Provincial policies, the Regional Official Plan, and conform to the general intent of the Town's Official Plan and Zoning By-law.

Subject to conditions, the authorization of the minor variances is not expected to generate negative impacts for adjacent uses or the community at large. Consequently, Planning Staff recommend that Application File Number **A22/2019P** be decided as follows:

Section 7.7 Requirements for buildings and structures accessory to dwellings

a) Maximum Lot Coverage	4.3 %	Approve
d) Maximum Height	6 m	Refuse
{If amended to}	5 m	Approve

THAT the applicant

- At the time of building permit, provide redesigned garage *Elevation Plans* (at the approved height) that contribute positively to the public and private realm through the use of window openings symmetrically proportionate to the building's mass to the satisfaction of the Director of Community Planning & Development.
- At the time of building permit, provide a Drainage Plan addressing stormwater runoff from the proposed garage addition to the satisfaction of the Director of Public Works.

Submitted by,



Curtis Thompson
Planner, B.URPI

Approved by,



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



Memorandum

Public Works Department - Engineering

DATE: August 16, 2019
TO: Curtis Thompson, Planner
CC: Nancy J. Bozzato , Clerk; Holly Willford, Deputy Clerk; Jason Marr, Director of Public Works
FROM: Xenia Pasiecznik, Engineering Technologist
RE: File A22/2019P
250 Canboro Road

Public Works has completed a review of the minor variance application A22/2019P for relief of Pelham Zoning By-Law 1136(1987), as amended. The application is made to seek relief from the following:

- Section 7.7 (a) – “Maximum Lot Coverage (Accessory)” – to permit a maximum lot coverage of an accessory building of 4.3% whereas the by-law permits 1%.
- Section 7.7 (d) – “Maximum Accessory Building Height” – to permit a maximum accessory building height of 6m whereas the by-law permits 3.7m.

Public Works has the following comments:

- That the applicant submits a drainage plan addressing how the runoff from the new addition will be addressed to ensure that drainage does not negatively impact neighbouring properties.

To: Nancy Bozzato, Holly Willford

Cc: Curtis Thompson, Sarah Leach

From: Belinda Menard, Building Intake/Plans Examiner
Community Planning & Development

Date: September 3, 2019

Subject: Building Comments on Applications to the Committee of Adjustment for
Minor Variances – September 10, 2019 hearing. **File A22/2019P**

Comment:

Building department offers the following comments,

- A building permit must be applied for with respect to the “existing 5.0m x 9.1m storage shed”, located in the back south corner.
- A building permit will be required for “proposed detached garage addition”.

Belinda Menard
Building Intake/Plans Examiner
Community Planning & Development

Via Email Only

July 29, 2019

Re: Minor Variance Application (Proposed Garage Addition)

Location: 250 Canboro Road, Town of Pelham

Town File: A22/2019P

Regional File: **MV-19-045**

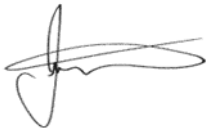
Private Sewage System Review

Niagara Region Development Services Private Sewage System staff has reviewed the Minor Variance Application for the above-mentioned property, concerning the construction of a proposed attached garage addition, on the north side of the existing detached garage.

According to our records, a permit for double in-ground filter bed was issued by Niagara Region Public Works Department in 2009. The existing bed and tanks are located south of the existing dwelling. The proposed garage addition meets with the minimum setback requirements.

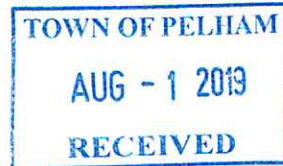
Therefore, we have no objections to the application as submitted, provided the garage addition will not contain any bedrooms, plumbing or living space.

Respectfully,



Justin Noort, Private Sewage System Inspector

Cc: Taylor Boyle, Development Approvals Technician, Planning and Development Services
Phill Lambert, P.Eng., Director, Infrastructure Planning & Development Engineering



Ms. Nancy Bozzato
Town Clerk / Secretary-Treasurer
Town of Pelham
20 Pelham Town Square,
Fonthill, Ontario
L0S1E0

Re: File A22 / 2019P – 250 Canboro Rd., Pelham (Part Lot 4, Concession 8)
Application For Variance

Notice of Objection

Dear Ms. Bozzato,

Please accept this document as my Notice of Objection to the variance sought by the Applicant in the above matter with respect to the maximum lot coverage and maximum height of accessory buildings as set out in Pelham Zoning By-law 1136 S. 7.7(a) and 7.7 (d).

I only received notification of this application by mail on Friday July 26, 2019 and note that submissions are due by Thursday August 1, 2019. This provided me with a minimal amount of time to prepare this submission, which was done without the benefit or assistance of a planning specialist. Please note that I intend to engage the services of a planning specialist to represent my interests in this matter, and will make further submissions in writing or orally at the hearing scheduled for August 13, 2019 at 4:00 P.M.

I would like to start by saying that for the last 7 years, my family and I have enjoyed a friendly and amicable relationship with the Applicant and his family, and I am disheartened that this application was made by him without any notice or discussion with me, considering the significant impact it will have on my home. My fear is that my opposition to this application will have a negative and long-lasting effect on our previously excellent relationship as neighbours, and for that, I am truly sorry. I have always tried to be a good neighbor wherever I have lived and I really don't want to be "that guy", however I do have multiple concerns with this proposal that I will outline only briefly at this time.

Size – This proposed structure is an "addition" to an existing detached garage in name only. This is a very large, new-build garage capable of holding an estimated 9+ cars, which is located in the front yard of the existing residence. The proposed new building is 36 ft. wide by 71 ft. 6" long and is 20 ft. high. The "addition" is actually separated from the original detached garage by a 22 ft. 8" wide by 43 ft. 5 3/4" long expanse of concrete pad between the two structures, which are only joined together by a new carport type roof covering this area, which is open to the front and rear (directly adjacent to my residence).

Setback and Location – Although this new garage could have been constructed smaller in depth and 22' 8" closer to the original detached garage (and therefore further rearward on the property) by eliminating the concrete pad, the entire proposed garage structure will now sit forward of the front of my residence at [REDACTED] Canboro Rd. In other words, when I walk out my front door and look east, or when anyone enters onto my property via my driveway, we will now be facing the entirety of a proposed 20 ft. high, 36 ft. wide and 71 ft. 6" long "warehouse" structure due to the angle that the proposed new building will be placed on the lot. I anticipate that this will seriously impact both the aesthetic and resale value of my home and property.

The proposed new structure has also been located at the absolute minimum setback of 3 metres from the mutual property line, leaving minimal room on the Applicant's property for additional foliage to potentially camouflage the appearance of this massive structure. The existing tall pine trees on the Applicant's property, which have a high needle canopy, provide almost no ground level screening and the two small "mulberry bushes" identified on the Applicant's drawing are no match for the imposing size of this structure. Because the existing foliage is already setback from the property line, the location of the proposed structure will likely preclude new plantings and construction may impact on the existing plantings resulting in their removal.

Purpose of the Proposed Structure – In a brief advisory phone call received from the Applicant on July 24, 2019 notifying me of his intention to build a "little garage and breezeway" next to his existing detached garage, the Applicant indicated that a letter would arrive shortly (received on July 26). When I jokingly asked why he needed more garage space (beyond his current 6-7 spaces) because "you can only drive one car at a time", the Applicant indicated, "to work on cars". Given that the Applicant is involved in the automotive salvage industry, I am concerned that he will potentially engage in a noisy car repair or spin-off automotive commercial venture in a large garage / display area located less than 30-40 ft. from the east side of my home.

Subsequent to receiving the notification letter from the Town, I texted the Applicant to ask to meet with him in person on Monday July 29 to discuss the setback and positioning of the proposed structure (as it was difficult for me to discern the layout and dimensions on the Town letter). Although he agreed to let me know when he was home and meet with me later that day, the Applicant has not contacted me since that time. Although my concerns regarding the purpose of this large structure are speculation, my attempt to seek information, discussion and reassurance from the Applicant was unsuccessful, in spite of our amicable relationship.

Roof Drainage and Water Flow – The new garage and carport will add 3,556 square feet of roof to collect rainwater. As noted in the Applicant's own drawings, the grade slopes toward my property. In fact, the entire front half of the Applicant's property drains toward my property, and in some places is up to 4 ft. higher. The

downspouts of the existing detached garage empty off the back of that structure directly toward my property, and there is an additional drain that surfaces from the ground at the rear of this garage bringing water from an unknown location.

Previously the volume of water draining from the Applicant's and my property combined resulted in a torrent of water draining downhill along the east side of my residence, across my back yard and entering onto the property to the west, resulting in complaints from that neighbor. This resulted in me installing swales along the east side of my residence (abutting the Applicant's property), and across my backyard, excavating a French drain along my west perimeter and also installing an armour stone water retention barrier, solely at my expense, to attempt to control the volume of water heading west which was impacting my neighbour.

These actions by me have corrected the issue, however the addition of 3,556 square feet of roof dumping untold thousands of gallons of water onto my property during heavy rains will undoubtedly overwhelm my efforts and will likely result in flooding of my property and that of the neighbor to the west.

Noise / Light Pollution – The Applicant's current detached garage beside my residence is minimally utilized, has no lighting to the rear and causes no impact with respect to light / noise. Although the specific design of lighting to be installed on the new structure is unknown, I anticipate that at a minimum, the proposed carport area, which is "open concept" and immediately adjacent to my kitchen window, will be illuminated in some fashion.

The Applicant has proposed a very large garage door on the front of the structure, as well as a second apparently even larger / wider door on the south side, exiting onto the carport concrete slab between the garages and directly facing my house / rear deck. As vehicles exit via this south door, the headlights will shine directly toward my rear deck and the noise of work being performed in the garage or vehicles running will be funneled by the side wall of the new garage, carport roof, and the back of the existing detached garage directly toward my home and deck approximately 30-40 ft. away. I anticipate that anytime this large proposed door is open, any noise will be magnified and will be directed toward my home.

The Applicant has greatly overstated the presence of "conifers" (white pines) in his drawings of this area. Currently there are 5 on his property, and I anticipate 3 will need to be removed to facilitate the proposed construction. Regardless, they will do nothing to diminish sound and their wispy branches will provide minimal reduction of light.

Undeclared Accessory Building Lot Coverage - The Applicant constructed another new detached garage last year, estimated to be approximately 24 ft. by 40 ft., in the southwest corner of his property. This accessory structure has not been identified or included in the Applicant's calculations regarding current accessory building lot coverage.

Suitable Alternate Location - The Applicant has a suitable location for additional garage space to the east of his attached garage / residence. A garage at this location could take advantage of his existing concrete pad for his attached garage, would provide alternate drainage to the south away from my property, and would have no impact on surrounding neighbours with regard to light or sound as the residence of the neighbour on the east side is located hundreds of feet to the north.

If this proposed garage is truly for the personal use and enjoyment of the Applicant, this location would be more appropriate than a location that is more than an estimated 175 ft. from his own residence but in very close proximity to my residence, with the associated significant impact it would have on my property.

Interim Conclusion

In closing, I would like to reiterate that I believe the Applicant's exceptionally large proposed "addition" to his detached garage and its location will impose a number of significant impacts affecting the use and enjoyment of my home, and that the Applicant is seeking a "major variance" as opposed to a minor variance to the governing by-law..

To be clear, I am not opposed to the Applicant constructing an appropriately sized and thoughtfully located garage on his property that does not impact the use and enjoyment of my residence, however I object to this particular proposal for the reasons mentioned.

As previously indicated, this submission has been prepared in a minimal amount of time and without the assistance of a planning specialist, and I reserve the right to make additional submissions both in writing and orally at the hearing scheduled for August 13, 2019, and to have a planning specialist attend with me to make further representations on my behalf.

Respectfully Submitted,



Michael Woods (Owner)

████████ Canboro Rd.,
Ridgeville ON.
████████

Date: 26 August 2019

Project No: 19164

Address: Town of Pelham
20 Pelham Town Square
P.O. Box 400
Fonthill, ON L0S 1E0

Attn: Town of Pelham Committee of Adjustment
Nancy Bozzato, Town Clerk / Secretary-Treasurer

Re: File A-22/2019P – 250 Canboro Road
Minor Variance Application [REDACTED]

Quartek Group Inc. has been retained by Mr. Michael Woods, adjacent property owner to the west [REDACTED], to provide planning justification for the refusal of the minor variance application File No. A-22/19P for the subject lands located at 250 Canboro Road.

Mr. Woods submitted a letter to the Town on August 1, 2019 for the notice of objection for the variance application to increase in the maximum lot coverage of an accessory structure/building and increase the maximum height for an accessory structure/building. The purpose of the objection was based on concerns for the size of the structure, location and setback, purpose of the structure, drainage issues, noise and light pollution, inaccurate building lot coverage, and the possibility of an alternative location.

I understand that the original notice was dated July 18, 2019 and mailed to adjacent property owners inviting the public to attend the Committee Meeting scheduled for August 13, 2019. The application described the proposal and identified the request for a maximum lot coverage for an accessory structure/building of 4% whereas Section 7.7 (a) permits 1%, and request for a maximum height of 6m for an accessory structure/building whereas Section 7.7 (d) permits 3.7m.

Subsequent to the Town receiving additional information about an undeclared accessory structure built without a building permit on the subject lands, a revised notice dated August 15, 2019 was mailed out with the Committee Meeting rescheduled for September 10, 2019. The revised application identified an increase in the maximum lot coverage for an accessory structure/building from 4% to 4.30%.



The application package for public review contained building elevations and a design justification letter for the requested variances. The design justification letter was brief and no thorough description on the proposed use of the structure or any regard to potential impacts to adjacent properties was provided.

In the letter, it stated that although the parcel is zoned agricultural (A) it is used for residential and 10% accessory building coverage is permitted. It is important to note that the parcel is not zoned residential and the by-law permits 1% for accessory structures/buildings that are incidental and subordinate to the main use, which in this case is residential (single detached dwelling). The quoted 10% is the total combined building lot coverage which includes the dwelling and all accessory structures/buildings.

The letter indicated that the current structures are not enough to meet the Applicant's storage needs and the increase in lot coverage and building height was required. Furthermore, the proposed structure will accent the renewed architectural appeal without effecting the function and charm of the property. The letter did not provide what the intended use of the proposed building would be for to determine if the requested variances are appropriate and warranted.

For the purpose of understanding the proposal in the context of site statistics and having regard to the zoning provisions, the following details are provided.

Subject Land Area: 11,700 m²/1.17 hectares/2.9 acres

Existing Buildings:

- (1) House and Attached Garage: 559.1 m²/6,018.10 ft²
- (2) Pool Shed: 3.4 m²/36.60 ft²
- (3) Existing Garage: 92.4 m²/994.60 ft²
- (4) Existing Shed: 45.79 m²/492.88 ft²

Existing Buildings Lot Coverage = 700.69 m²/7,542.18 ft²

Existing Accessory Structures/Buildings:

Attached Garage: 128.96 m²/1,388.11 ft²)
Pool Shed: 3.4 m²/36.60 ft²
Garage: 92.4 m²/994.60 ft²
Shed: 45.79 m²/492.88 ft²

Existing Accessory Structures/Buildings Lot Coverage = 270.55 m²/2,912.19 ft²



According to the Zoning By-law, Section 7.7 (a) 1% of accessory structures/buildings should equate to a maximum of 117 m²/1,259.38 ft² and 10% of all buildings would equate to 1,170 m²/12,593.78 ft².

Currently, the lot coverage of existing accessory structures/buildings is 2.3% and with the addition of the proposed garage and a building area of 340.1 m²/3,660.81 ft² the new total lot coverage for accessory structures/buildings will be 610.65 m²/6,572.98 ft². This is an increase from 1% to 5.2% ($610.65 \text{ m}^2 \div 117 \text{ m}^2 = 5.2$), which exceeds the maximum 1% lot coverage for accessory structures/buildings by 4.2%.

The combined lot coverage for existing structures/buildings (dwelling and accessory uses) is 5.9% and with the proposed garage added, the new combined lot coverage will be 8.9%, which does not exceed the maximum 10% total building lot coverage zoning requirement.

The requested building height from 3.7m/12.14ft to 6m/19.69ft would be considered excessive given its proposed location in the front yard making it very noticeable on the Canboro Road corridor. Moreover, the building is situated right against the minimum side yard setback of 3m/9.84ft which is immediately adjacent to the neighbouring property to the west. The orientation and angle of the proposed garage will create a visual impact by screening views from the front porch of 252 Canboro Road in the easterly direction.

As shown on the site plan, there is a breezeway to connect to the buildings with a large concrete pad in between. The Applicant contacted Mr. Woods indicating the proposed garage was to be used to store cars however the number of cars were not disclosed, and given the size of the structure and the large open concrete area raises concerns for light trespass and excessive noise (e.g., possible automotive service and repair shop).

As prescribed under Section 45 (1) of the Planning Act, four tests are applied to determine if the minor variance should be approved. In the evaluation of determining whether the variance should be approved, all four tests must be satisfied.

1. *Is the requested variance minor in nature?*

As provided in the site statistics, the request to increase lot coverage for an accessory structure/building from 1% to 5.2% is not minor in nature since the size and location of the building will require the removal of trees and impede the sight lines of Canboro Road to the neighbouring property to the west.



In terms of preserving the rural and natural character of the site along the Canboro Road corridor, the size and location of the building does not achieve that objective.

The size of the building and additional concrete pad will add a significant amount of nonpermeable surface thus increasing water runoff and the potential to impact the drainage conditions of the lands to the west.

The requested building height increase of 2.3m/7.55ft is not considered minor in nature since it would be constructing a two-storey structure that is supposed to be incidental to the main use (dwelling) of which is set back further from the road. Despite the topography of the site and visual perception from Canboro Road that the structure may not appear high, if compared to adjacent accessory buildings along the corridor, this building is not consistent with the existing built form. Understanding the aesthetic appearance of the proposed garage is to compliment the dwelling, the proposed height will not respect the aesthetic appearance of adjacent uses.

The Applicant should provide more justification on how this building in addition to the other accessory structures and buildings on the property are incidental to the main use (dwelling) when the total combined floor area of accessory uses is greater than the size of the dwelling.

Dwelling: 430.14 m²/4,629.99 ft²

Accessory Structures/Buildings: 610.65 m²/6,572.98 ft²

The Applicant should also provide more justification and explain the hardships that would be encountered if the variances are not granted approval.

2. *Is the requested variances desirable for the appropriate use of the land, building or structure?*

With respect to desirability, the proposed garage is an accessory use and appropriate for storage purposes, however the size and location of the building is not appropriate given its potential to impact the rural character, create a visual impact by screening the neighbour, impact to existing trees, increase in water runoff and potential for drainage issues.



3. *Is the requested variances in keeping with the general intent and purpose of the Official Plan?*

Given that the proposed garage is an accessory use, it is permitted under the Specialty Agricultural designation. Although, Section B2.2.7 of the Official Plan provides a policy that identifies the Canboro Road as a corridor and an important transportation linkage between Downtown Fenwick and Fonthill. The corridor is considered to be an area of significant potential for enhancement as a rural promenade characterized by public parks and spaces geared to pedestrians and cyclists, as well as the promotion of agricultural based tourism and accessory commercial uses.

Understanding that the proposed garage is an accessory use to the main use being the dwelling, the location, height and size of the building does not meet the intent of maintaining the rural character of the corridor.

4. *Is the general intent and purpose of the Zoning By-law being met?*

The proposed garage is a permitted use in the agricultural (A) zone, however the regulations to restrict accessory structures/buildings to 1% and maintain the agricultural and natural heritage settings is not being satisfied.

The Applicant is requesting 610.65 m²/6,572.98 ft² of accessory uses to be approved which is 4.2% greater than the zoning requirement and this will significantly impact the context of the rural and natural setting of the site and the Canboro Road corridor in the broader context.

Furthermore, the requested increase in building height from 3.7m/12.14ft to 6m/19.69ft will create a visual screen from the easterly views of the neighbour and the impact the openness and natural setting of the area.

Besides the above noted impacts, the potential noise and light trespass from the building is imminent and the Applicant has not provided any details in the justification letter. A lighting plan and the particulars of the light design should be made available to determine the potential light trespass onto adjacent properties. The specific use for the proposed garage should be disclosed so any mitigation to offset any impacts are listed as conditions of approval.

In conclusion, the requested variances should be denied by the Committee of Adjustment on the basis that it does not satisfactorily meet the four tests.



Mr. Woods is not opposed to the Applicant constructing a garage however the size, scale and location of the building should be reduced and/or relocated elsewhere on the subject lands.

For consideration by the Committee of Adjustment, the Applicant should consider the following prior to approvals being granted:

1. Reduce the size, scale and height of the building so that it aligns with the intent of an accessory use being incidental to the main use (dwelling).
2. Consider relocating the building to the existing attached garage located along the eastern property limits.
3. Prepare and submit a Tree Inventory and Preservation Plan with recommendations for appropriate replacement of trees to offset the visual impacts to adjacent properties.
4. Prepare and submit a stormwater management brief and grading plan to the Town's Engineering Department for approval to ensure the stormwater runoff and drainage meets the Town standards.

If you have any questions or require additional information, please do not hesitate to contact me.

Thank you,

A handwritten signature in blue ink, appearing to read "Susan Smyth", with a stylized flourish at the end.

Susan Smyth
Planner

Cc: Michael Woods – Owner [REDACTED]

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 m², 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 15th 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

Memorandum

Public Works Department - Engineering

DATE: August 16, 2019
TO: Curtis Thompson, Planner
CC: Nancy J. Bozzato , Clerk; Holly Willford, Deputy Clerk; Jason Marr, Director of Public Works
FROM: Xenia Pasiecznik, Engineering Technologist
RE: File A23/2019P
405 Canboro Road

Public Works has completed a review of the minor variance application A23/2019P for relief of Pelham Zoning By-Law 1136(1987), as amended. The application is made to seek relief from the following:

- Section 7.7 (a) – “Maximum Lot Coverage (Accessory)” – to permit a maximum lot coverage of an accessory building of 4% whereas the by-law permits 1%.

Public Works has no comments.

To: Nancy Bozzato, Holly Willford

Cc: Curtis Thompson, Sarah Leach

From: Belinda Menard, Building Intake/Plans Examiner
Community Planning & Development

Date: September 3, 2019

Subject: Building Comments on Applications to the Committee of Adjustment for
Minor Variances – September 10, 2019 hearing. **File A23/2019P**

Comment:

Building department offers no comment at this time.

Belinda Menard
Building Intake/Plans Examiner
Community Planning & Development

Via Email Only

September 06, 2019

Regional File: **MV-19-047**

Nancy J. Bozzato, Dipl.M.M., AMCT,

Town Clerk / Secretary-Treasurer

Administration Services

20 Pelham Town Square, P. O. Box 400

Fonthill, Ontario L0S 1E0

Re: Application for Minor Variance

Location: 405 Canboro Road, Town of Pelham

File NO.: A23/2019

Niagara Region Development Services Division has reviewed the information circulated for the above-noted application and provides the following comments to assist the Town in its consideration of this application.

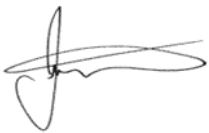
Private Sewage System Review

According to the plan submitted, the application is to permit the construction of a pool cabana accessory structure with requested relief maximum lot coverage.

No record was found for the existing sewage system servicing the residential dwelling listed above. Our site inspection at confirmed a single chamber septic tank located on the northwest side of the existing house. The location of the leaching bed was indeterminate at that time and although no visual defects were observed, it could not be confirmed that the sewage system at 405 Canboro Road met with the minimum setback to the proposed structure. The Ontario Building Code requires in-ground sewage systems be a minimum of 5 metres to any structures. However, further to our inspection, information was provided that now confirms the leaching bed is located on the west side of the existing dwelling and away from said structure. It should also be noted that 405 Canboro currently support a residential dwelling, detached garage, in-ground pool and has usable land for any future replacement of the sewage systems when required in the future.

Therefore, based on our inspection and the information submitted for the minor variance application, we have no objections to the proposed structure, provided no washrooms, bedrooms, living space or plumbing is included.

Respectfully,



Justin Noort, Private Sewage System Inspector

cc: Taylor Boyle, Development Approvals Technician, Planning and Development Services
Phill Lambert, Director of Infrastructure Planning & Development Engineering, Planning and Development Services