

Committee of Adjustment AGENDA

12/2019

December 3, 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 A26/2019P - 1611 C Lookout Street

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1. Town of Pelham Planning Department
2. Town of Pelham Public Works
3. Town of Pelham Building Department
4. Anna Pliousnina
5. Betty Lou and Andrew Lynds
6. Eric Hill
7. Garry and Roberta Kivell
8. Georgina George

5.2 A27/2019P - 997 Canboro Road

20

1. Town of Pelham Planning Department
2. Town of Pelham Public Works
3. Town of Pelham Building Department
4. Niagara Region
5. Henk and Helen Fennema

6. Applications for Consent

7. Minutes for Approval

33

August 13, 2019

8. Adjournment

December 3, 2019

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

Re: Minor Variance Application A26/2019P
1611C Lookout Street, Pelham
Concession 7 Part of Lot 3 and Part 2 on RP 59R-15972
Roll No. 2732 020 010 01303

The subject land is located on the east side of Lookout Street, lying north of Marlene Stewart Drive, legally described above and known municipally as 1611C Lookout Street in the Town of Pelham.

The subject land is zoned 'Residential 1' (R1) in accordance with Pelham Zoning By-law 1136 (1987), as amended. The minor variance application requests relief from the following sections to construct a detached garage:

- **Section 6.1 c) "Maximum (accessory building) Height"** to permit a building height of 4.9m whereas the current max height is 3.7m.

Applicable Planning Policies

Provincial Policy Statement (PPS), 2014

The subject parcel is located in a 'Settlement Area' according to the Provincial Policy Statement (PPS). The PPS provides policy direction on matters of provincial interest related to land use planning and development, and sets the policy foundation for regulating the development and use of land.

Policy 1.1.3.1 states that settlement areas shall be the focus of growth and their vitality and regeneration shall be promoted.

Growth Plan for the Greater Golden Horseshoe (GGH) (2019)

This Plan informs decision-making regarding growth management and environmental protection in the GGH. The subject parcel is located within a 'Settlement Area' according to the Growth Plan.

No direct policies of the Growth Plan speak to uses such as accessory buildings or porches / decks.

Niagara Regional Official Plan (Consolidated, 2014)

The Regional Official Plan designates the subject parcel as 'Built-up Area' within the Urban Area Boundary.

Policy 11.A.2 states that the Region encourages the development of attractive, well designed residential development that:

- j) Creates or enhances an aesthetically pleasing and functional neighbourhood.

Pelham Official Plan (2014)

The Town Official Plan designates the subject land as 'Urban Living Area / Built Boundary'.

Policy A2.3.2 Urban Character Objectives are to respect and enhance the character of existing residential neighbourhoods and ensure that all applications for development are physically compatible with scale of the surrounding neighbourhood.


Pelham Zoning By-law No. 1136 (1987)

The Zoning By-law identifies the subject parcel as 'Residential 1' (R1).

Section 6.1 Requirements for buildings and structures accessory to dwellings

- c) Maximum Building Height 3.7m
Request: 4.9m

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.	<p>The proposed accessory building height of 4.9m is minor given the semi-urban context, scale of the neighbourhood's rear yards, building location and steep topography. The proposed garage would be located 10.57m from the rear lot line, this setback is larger than what is required for the dwelling which enjoys a 10.5m height limit. There exists some mature tree along the rear lot lines which help to buffer the proposed garage from the easterly neighbours (see Figure 1). These trees located sporadically along the subject lands and the parcels directly north (\pm 3m from the rear lot line), help buffer any unsightly views from the proposed garage but they also already have more of a shadow impact than the increased garage height could create.</p> <p><i>Figure 1: Subject lands as viewed from 68 Buckley Terrace</i></p> 

From the Department of



**Community Planning
& Development**

	No negative impacts are anticipated by the adjacent neighbours.
2. The variance is desirable for the appropriate development or use of the land.	<p>The proposed variance is desirable for the use of the land because it will provide enhanced storage and usability of the residential property, enhancing its usability for recreation and livability. While the detached garage requires relief from the maximum height provision, Planning staff are of the opinion there will be no material change in terms of land use desirability. It should also be noted that modest increases in accessory building heights have been very popular requests throughout the Town of Pelham in recent years.</p> <p>It is noted that the proposed accessory building is designed well enough to fit into the residential character of the neighbourhood and should complement the existing built form around it. Planning staff would suggest the inclusion of modest, symmetrical windows on the East building Elevation Plan, windows positioned near the ceiling to maintain privacy but to architecturally enhance the rear façade.</p>
3. The variance maintains the general intent and purpose of the Official Plan.	<p>The Official Plan does not speak to buildings accessory to residential dwellings but does encourage uses which are compatible with the neighbourhood character. There is room for improvement on the proposed detached garage by way of improved rear architectural openings and additional tree plantings.</p> <p>Regardless, Planning staff believe the proposed variance to increase the building height is not foreseen to compromise any policy objectives of the Official Plan.</p>
4. The variance maintains the general intent and purpose of the Zoning By-law.	<p>The size of the proposed detached garage's height at 4.9m is appropriate given the geography & topography of the subject lands and that of the neighbouring homes. The proposed location of the accessory building with a large rear yard setback minimizes / offsets the variation in building height, by mitigating what could have been an otherwise poor orientation of a building footprint if it were located at the default minimum 1.2m rear yard setback.</p> <p>Given the situational context, the added height will not adversely impact the residential nature of the surrounding lots or the open space areas of the subject lands as it complies with the lot coverage regulations and setbacks. Therefore, the variance maintains the intent of the Zoning By-law.</p>

On October 31st 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 (November 19, 2019)
 - No comments.
- Building Department (November 20, 2019)
 - A separate building permit is required for the proposed detached garage.

Public correspondence summarized below:

- Comment – Objects because the proposed detached garage will look like a ‘wall’ from our backyard.
 - ✓ The proposed rear yard setback is 10.57m which is considerably larger than the 1.2m minimum setback required. The large rear yard setback would offset most, if not all impacts typically associated with larger building masses.
- Comment – Objects because the proposed detached garage will not be aesthetically pleasing to the Buckley Terrace homes.
 - ✓ The proposed location of the detached garage would still benefit from the inclusion of symmetrically proportioned windows near the top of the wall to ensure privacy is maintained but yet enhancing the structures aesthetic quality.
- Comment – Suggests moving the detached garage further west.
 - ✓ This would help reduce the footprint of the driveway, although the perspective difference as viewed from Buckley Terrace would be relatively minor given the proposed 10.57m setback and existing mature trees present.
- Comment – The granting of this zoning relief will set a precedent whereby the future residential properties to the north may exercise the same entitlement.
 - ✓ *Planning Act* decisions are not precedent setting, and each development is considered on a case-by-case basis.

Planning staff visited two neighbouring properties on Buckley Terrace to better understand the perspective from the rear yards down the hill. One of the abutting land owners to the east had not realized the applicant’s Site Plan proposed a larger 10.57m setback. After learning this, they were understandably relieved and simply suggested the addition of a couple new tree plantings to help screen the building’s mass further.

Planning Comments

Planning staff note that the property is 1951m² in land area and is located on the east side of Lookout Street, lying north of Marlene Stewart Drive in the northwest corner of the Fonthill *Urban Settlement Area*. The property is bounded by existing (& future) single detached dwellings on all sides save for a golf practice green to the west.

It is noted that the proposed 3-bay, detached garage (accessory building) does not appear to have a loft component as part of its design. It should be noted that considering the fairly large horizontal footprint of the building, paired with a traditionally pitched (8:12) gable roof likely contributes to the necessary height of the structure. Most of the general public would rather not build a flat roof for a residential accessory building as they can be expensive, are less common and come with different long term maintenance requirements.

The subject land is rather large for an urban lot at 0.2 hectares, and it is capable of supporting the footprint of the proposed garage together with it’s added height.

The proposed Site Plan indicates a rear yard setback of 10.57m. This setback exceeds the 7.5m minimum setback required for the principle dwelling which could hypothetically be built as tall as 10.5m, as-of-right. The taller accessory building in this situation is relatively minor in nature given the size of the subject lands and the existing vegetation surrounding the lands (Figure 2) which help act as a natural buffer between the flanking residences below the hill to the east fronting Buckley Terrace.

Figure 2: (left) View from approximate location of proposed detached garage looking east towards Buckley Terrace. (right) View from 62 Buckley Terrace looking west to the subject lands.



Planning staff suggest the inclusion of modest, symmetrical proportioned windows on the East building Elevation Plan, windows positioned near the ceiling will maintain privacy from overlook but will help architecturally enhance the rear façade. Planning staff are of the opinion the requested minor variance is minor in nature and that no land use compatibility issues will arise as a direct result of this development being approved. The applicant is advised that a separate building permit is required for the construction of the accessory building.

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 number A26/2019P be **approved** subject to the following:

THAT the applicant

- Shall within 6 months from the date of this decision, or prior to building permit, plant a minimum of two (2) medium or large caliper trees between the rear lot line and proposed detached garage. One tree shall be located north of, and the other south of the existing rear yard tree (which shall remain), they shall be equally spaced from the existing tree and their respective side lot lines, while not impacting any drainage swales and to the satisfaction of the Director of Community Planning & Development.

Prepared by,



Curtis Thompson
Planner, B.URPI

Approved by,



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

To: Nancy Bozzato, Holly Willford

Cc: Curtis Thompson, Sarah Leach

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

Date: November 20, 2019

Subject: Building Comments on Applications to the Committee of Adjustment for
Consents/Minor Variances – December 3, 2019 hearing. **File A26/2019P**

Comment:

A Building permit will be required for the proposed garage.

Belinda Menard
Building Intake/Plans Examiner
Community Planning & Development

Re: FILE A26/2019P
1611 C Lookout Street, Pelham
Part Lot 3, Concession 7 (Part 2 on 59R-15972)

Hello,

We object to the height and location of the proposed accessory building.

The Problem:

Because of the proposed building's proximity to the property line, matched with a sizeable elevation change (approx. 8m located between the adjoining properties of Buckley Terrace & Lookout Street), I feel that no variance in the current bylaw should be granted. We have considered the scale and massing of the proposed accessory building's location and find it will only provide a towering back drop while perched on top of the sizeable elevation change. We ask that no variance be granted and that the Planner even reconsider the location of the proposed building's proximity to the property line.

Possible Solution:

I suggest moving the proposed building much further West, at which point height and size have less impact on the visuals from down below, the negative scale and massing factors will decrease with distance and building a structure to 4.9m (to the mid-peak) should not be such a major issue.

I wish to be notified of the decision of the Committee of Adjustment in respect of this application. I would like to request a copy of the decision when completed.

Sincerely,

Anna Pliousnina

██████████ Buckley Terr.

Font Hill, ON, ██████████

Nov. 15/2019

JP

From: [Nancy Bozzato](#)
To: [Holly Willford](#)
Subject: FW: OBJECTION!! to proposal File A26/2019P
Date: Wednesday, November 13, 2019 12:02:51 PM
Importance: High

From: [REDACTED]
Sent: Wednesday, November 13, 2019 11:21 AM
To: Nancy Bozzato <NBozzato@pelham.ca>; Curtis Thompson <CThompson@pelham.ca>
Subject: OBJECTION!! to proposal File A26/2019P
Importance: High

November 13, 2019
To whom it may concern:

Thank you for this opportunity to formally oppose the height and location of the proposed building. We oppose this.

According to the Pelham website, the committee of Adjustments can approve minor variances if

1) They are "Minor in nature".

This is NOT "MINOR"

especially to us who will look up the hill in our beautifully landscaped backyards...to a "WALL"

(See attached photos)

or

2) If they are desirable for the appropriate development or use of the land, building or structure.

This is NOT DESIRABLE and will not be esthetically pleasing to the people in the homes at the bottom of the hill.

We suggest moving the building further west.

We wish to be notified of the decision of the Committee of Adjustment in respect to this application. We would like to request a copy of the decision when completed.

Thank you again for letting us express our concerns.

Betty Lou & Andrew Lynds

[REDACTED] Buckley Terrace

Fonthill, On

[REDACTED]

Sent from my Samsung Galaxy smartphone.





From: [Nancy Bozzato](#)
To: [Holly Willford](#); [Curtis Thompson](#)
Subject: Fwd: Subject: Objection to Proposal FILE A26/2019P
Date: Thursday, November 7, 2019 6:45:01 AM

Sent from my iPhone

Begin forwarded message:

From: Eric Hill [REDACTED]
Date: November 6, 2019 at 8:23:14 PM EST
To: Nancy Bozzato <NBozzato@pelham.ca>
Cc: Curtis Thompson <CThompson@pelham.ca>
Subject: Subject: Objection to Proposal FILE A26/2019P

Re: FILE A26/2019P
1611 C Lookout Street, Pelham
Part Lot 3, Concession 7 (Part 2 on 59R-15972)

Hello,

We object to the height and location of the proposed accessory building.

The Problem:

Because of the proposed building's proximity to the property line, matched with a sizable elevation change (approx. 8m, located between the adjoining properties of Buckley Terrace & Lookout Street), I feel that no variance in the current bylaw should be granted. We have considered the scale and massing of the proposed accessory building's location and find it will only provide a towering back drop while perched on top of the sizable elevation change. We ask that no variance be granted and that the Planner even reconsider the location of the proposed building's proximity to the property line.

Possible Solution:

I suggest moving the proposed building much further West, at which point height and size have less impact on the visuals from down below, the negative scale and massing factors will decrease with distance and building a structure to 4.9m (to the mid-peek) should not be such a major issue.

I wish to be notified of the decision of the Committee of Adjustment in respect of this application.

I would like to request a copy of the decision when completed.

Sincerely,

Eric Hill

■ Buckley Terrace

Fonthill, ON

■

■

From: [Nancy Bozzato](#)
To: [Holly Willford](#)
Subject: FW: Proposal - File A26 / 2019P Accessory Structure - Garage
Date: Tuesday, November 12, 2019 4:03:27 PM

-----Original Message-----

From: Garry Kivell [REDACTED]
Sent: Tuesday, November 12, 2019 2:46 PM
To: Nancy Bozzato <NBozzato@pelham.ca>
Cc: Curtis Thompson <CThompson@pelham.ca>
Subject: Proposal - File A26 / 2019P Accessory Structure - Garage

We object to the granting of relief from the existing bylaw requirement(s).

Because of the proposed building's proximity to the rear property lines and the significant elevation change between the adjoining properties on Lookout Street and Buckley Terrace, the garage buildings mass will appear significantly larger and obstruct the visuals from our residence.

The granting of relief will set a precedent whereas the future owners of the adjacent properties will or may be entitled to the same type of relief and the residences along Buckley Terrace could be significantly impacted negatively.

The lot where the proposed garage is to be located is significantly deeper than the lots on Buckley Terrace so it would seem to make more sense to locate the building further up (further west) on the lot so as to not hinder the visuals of the residences on Buckley Terrace or at least mitigate the impact.

We wish to be notified of the decision with respect to this application.

Sincerely

Garry and Roberta Kivell
[REDACTED] Buckley Terrace
Fonthill ON
[REDACTED]

Sent from my iPad

From: [Nancy Bozzato](#)
To: [Georgina George](#)
Cc: [Curtis Thompson](#); [Holly Willford](#)
Subject: RE: Objection to Proposal FILE A26/2019P
Date: Thursday, November 7, 2019 8:44:02 AM

Good morning, Georgina

Please be advised that we will forward your comments to the public hearing scheduled for this file. We will provide a copy of the written decision when complete.

Best regards,
Nancy Bozzato

From: Georgina George [REDACTED]
Sent: Thursday, November 7, 2019 7:43 AM
To: Nancy Bozzato <NBozzato@pelham.ca>
Cc: Curtis Thompson <CThompson@pelham.ca>
Subject: Fw: Objection to Proposal FILE A26/2019P

To: <NJBozzato@pelham.ca>

To Whom This May Concern:

Subject: Objection to Proposal FILE A26/2019P

Re: FILE A26/2019P
1611 C Lookout Street, Pelham
Part Lot 3, Concession 7 (Part 2 on 59R-15972)

Good Morning:

I would like to express my concern re the height and location of the proposed accessory building.

The Problem:

Because of the proposed building's proximity to the property line, matched with a sizable elevation change (approx. 8m, located between the adjoining properties of Buckley Terrace & Lookout Street), I feel that no variance of the current bylaw should be granted. I have considered the scale and massing of the proposed accessory building's location and find it will only provide a towering back drop while perched on top of the sizable elevation change. I ask that no variance be granted and that the Planner even reconsider the location of the proposed building's proximity to the property line.

Possible Solution:

I suggest moving the proposed building much further West, at which point height and size have less impact on the visuals from down below, the negative scale and massing factors will decrease with distance and building a structure to 4.9m (to the mid-peek) should not be such a major issue.

I wish to be notified of the decision of the Committee of Adjustment in respect of this application. I would like to request a copy of the decision when completed.

Sincerely,

Georgina George
[REDACTED] Buckley Terrace
Fonthill, ON

[REDACTED]
[REDACTED]

Curtis Thompson

From: Anna Pliousnina [REDACTED]
Sent: November 26, 2019 12:41 PM
To: Curtis Thompson
Subject: Re: Objection to Minor Variance A26/2019P

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Curtis. It was nice to meet you. As discussed earlier it would be a good idea to plant some evergreens, like pine and spruce trees.

Thanks Anna Pliousnina

[Sent from Yahoo Mail on Android](#)

On Mon., 18 Nov. 2019 at 4:18 p.m., Curtis Thompson
<CThompson@pelham.ca> wrote:

Hi Anna,

Thanks for your comments regarding the neighbouring accessory building proposal. I'd be interested in getting a perspective of your neighbour's land to the west from your backyard. Would you be interested in allowing me on your property to help understand the potential impact?

I have some time Wednesday, Friday (afternoon) or early next week?

Looking forward to hearing from you.

Best,



Curtis Thompson, B.U.R.P.I.
Planner
Community Planning &
Development

e: cthompson@pelham.ca
p: 905.892.2607 x324
pelham.ca

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

TOWN OF PELHAM CONFIDENTIALITY NOTICE:

The information contained in this communication, including any attachments, may be confidential and is intended only for the use of the recipient(s) named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, disclosure, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please re-send it to the sender and permanently delete the original and any copy of it from your computer system. Thank you.

Re: FILE A26/2019P
1611 C Lookout Street, Pelham
Part Lot 3, Concession 7 (Part 2 on 59R-15972)

Hello,

We object to the height and location of the proposed accessory building.

The Problem:

Because of the proposed building's proximity to the property line, matched with a sizeable elevation change (approx. 8m located between the adjoining properties of Buckley Terrace & Lookout Street), I feel that no variance in the current bylaw should be granted. We have considered the scale and massing of the proposed accessory building's location and find it will only provide a towering back drop while perched on top of the sizeable elevation change. We ask that no variance be granted and that the Planner even reconsider the location of the proposed building's proximity to the property line.

Possible Solution:

I suggest moving the proposed building much further West, at which point height and size have less impact on the visuals from down below, the negative scale and massing factors will decrease with distance and building a structure to 4.9m (to the mid-peek) should not be such a major issue.

I wish to be notified of the decision of the Committee of Adjustment in respect of this application.
I would like to request a copy of the decision when completed.

Sincerely,

Anna Pliousnina
[REDACTED] Buckley Terr.
Font Hill, ON, L0S 1E5

Nov. 15/2019

JPA

December 3, 2019

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

Re: Minor Variance Application A27/2019P
997 Canboro Road
Part of Lot 20, Concession 9, and Part 1 on RP 59R-500
Roll No. 2732 010 016 10903

The subject land is located on the north side of Canboro Road lying east of Victoria Avenue (Regional Road 24), legally described above, and known municipally as 997 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 6.14 a) whereas no dwelling on any adjacent lot shall be located within 300m of a livestock operation, to reduce the minimum distance separation (MDS) to 201m of any livestock operation.***

The variance is requested to facilitate the construction of a single detached dwelling on an existing lot of record.

Applicable Planning Policies

Provincial Policy Statement (PPS), 2014

The PPS designates the subject land as within a 'Prime Agricultural Area', which shall be protected for long-term use as agriculture. 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).

Minimum distance separation formulae were developed by the Province to separate uses so as to reduce incompatibility concerns about odour from livestock facilities. MDS legislation is also meant to help protect farmers and those looking to sustain their livelihoods in the agricultural industry by means of carrying out their *normal farm practices*.

Policy 2.3.3 states that in *prime agricultural areas*, new land uses, including the creation of lots, and new or expanding livestock facilities shall comply with the MDS formulae.

Greenbelt Plan (2017)

Policies surrounding MDS echo those originating from the PPS (2014). For instance, policy 3.1.2 states new land

uses, including the creation of lots (as permitted by policy), and new or expanding livestock facilities, shall comply with the MDS formulae.

Should the existing livestock facility located to the east seek to expand its capacity, it would be required to the MDS II calculation. The MDS I calculation is reserved for new, non-livestock developments such as the subject application.

The Minimum Distance Separation (MDS) Document – Publication 853

The Ministry of Agriculture, Food & Rural Affairs (OMAFRA) issued the MDS Document in order to assist municipalities, farmers and consultants in implementing MDS as part of planning and development applications.

- Implementation Guideline No. 7 – Application of MDS for building permits on existing lots
 - While municipalities have the option to exempt buildings proposed through building permit applications on *lots* which exist prior to March 1, 2017, they are strongly discouraged from exempting these applications.
 - If local exemptions are supported for building permits on existing *lots*, a municipality shall adopt provisions in their comprehensive zoning by-law which clearly state the details for such exemptions. Examples of such provisions may include, but are not limited to, those which only require MDS I setback for building permit applications:
 - On existing *lots* which are vacant;
 - On existing *lots*, but where the MDS I setback cannot be met, then through a planning application, allow a *dwelling* provided that it be located as far as possible from the existing livestock facility;
 - On lots which exist prior to a specific date (e.g. March 1, 2017 or the date of adoption of a comprehensive zoning by-law);
 - On existing *lots* that are in a particular land use zone or designation;
 - On existing *lots* that are above or below a certain size threshold; or
 - For certain types of buildings (e.g. dwellings).
- Implementation Guideline No. 43 – Reducing MDS setbacks
 - MDS I setbacks should not be reduced except in limited site specific circumstances that meet the intent of this MDS Document.
 - If deemed appropriate by a municipality, the processes by which a reduction to MDS I may be considered could include a minor variance to the local zoning by-law provisions, a site specific zoning by-law amendment or an official plan amendment introducing a site specific policy area.

Town staff understand there are very few, existing vacant lots of record (such as this) remaining within the Town of Pelham that would conflict with MDS policies due to their proximity to existing livestock facilities.

Regional Official Plan (Consolidated 2014)

The Regional Official Plan designates the subject parcel as ‘Protected Countryside’ & ‘Unique Agricultural Area’.

Policy 5.B.6 states single dwellings are permitted on existing vacant lots of record, provided they were zoned for such as of December 16, 2004.

Pelham Official Plan (2014)

The local Official Plan designates the subject parcel as 'Specialty Agricultural'. Policy B2.2.2 states (among other uses) one single detached dwelling is permitted on a vacant lot of record.

Pelham Zoning By-law Number 1136 (1987)

The Zoning By-law identifies the subject parcel as 'Agricultural' (A). The permitted uses (among others) include:

- a) Agricultural uses including greenhouses;
- c) One single detached dwelling on one lot;
- g) Uses, buildings and structures accessory to the foregoing permitted uses.

Section 6.14 New development in or adjacent to an agricultural (A) zone

No residential use shall be established after the date of passing of this By-law adjacent to a livestock facility and conversely no new / enlargement of an existing livestock building shall be established adjacent to one of the foregoing non-farm uses, except in accordance with the following setback requirements.

- a) No non-farm use including a residential use accessory to a permitted adjacent agricultural use shall be established adjacent to a livestock building within a distance determined by the MDS formula.

Notwithstanding any of the above, no dwelling on any adjacent lot shall be located within 300m of a livestock operation, except as a dwelling on a lot existing at the date of passing of this By-law shall only comply with the MDS requirements.

The application requests relief from Section 6.14 a) to reduce the MDS requirement from 300m to 200m to allow for the construction of a dwelling on an existing lot of record that was created prior to the Zoning By-law being approved.

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.	Reducing the MDS requirement is minor overall given the lack of nuisance complaints with other existing dwellings in close proximity to the east and the prevailing westerly winds directing odour from the nearby livestock operation to the east. The variance is also minor overall because it maintains the calculated MDS I setback as determined by OMAFRA based on verifiable metrics and not just an arbitrary baseline setback lacking calibration.

	Furthermore, given the presence of other nearby residential uses which predate the Zoning By-law and are located within the MDS radii, no negative impacts are anticipated.
2. The variance is desirable for the development or use of the land.	The variance would be desirable as it would provide for the development of a single detached dwelling for which the lot was legally created and is large enough that future agricultural production / development is feasible. It is noted that the lot is currently being farmed for what appears to be cash crops. The proposed dwelling would not compromise the largest balance of the subject lands to continue to be farmed for agricultural purposes.
3. The variance maintains the general intent and purpose of the Official Plan.	The variance maintains the general intent of the Official Plan because it would permit the construction of a single detached dwelling which is a permitted use on existing lots of record provided they were zoned for such as of December 16, 2004, under Policy B2.2.2.
4. The variance maintains the general intent and purpose of the Zoning By-law.	Reducing the MDS requirement to 201m from a required 300m does not compromise the intent of the Zoning By-law because sufficient spatial separation is maintained between the existing and proposed use. Paired with a prevailing westerly wind and the lack of odour nuisance complaints, there has not been an issue with the neighbouring residence to the east, also within closer proximity to the existing livestock operation. The proposed dwelling still complies with the calculated MDS I formula in accordance with Provincial policy and Section 6.14 of the Zoning By-law.

On November 4th 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 (November 19, 2019)
 - {See conditions & Appendix for comments}
 - A Driveway Entrance & Culvert Permit is required prior to building permit.
- Building Department (November 20, 2019)
 - All necessary permits are required prior to construction commencing.
- Niagara Region Planning and Development Services (November 20, 2019)
 - {See Appendix for full comments}
 - The proposed dwelling complies with the calculated MDS I formula but cannot meet the Zoning By-law's default 300m setback which triggers the need for zoning relief.
 - No objections.

Public Comments:



- Henk / Helen Fennema (November 20, 2019)
Objects to the relief of the MDS requirement because the by-law was enacted to protect the business of farming and nearby residents from noise and odour.
 - Staff agree, although, the MDS policies of the Province deal specifically with nuisance via unpleasant odour and not necessarily '*normal farm practices*', as defined in the Farming & Food Production Protection Act, 1998, that is conducted in a manner consistent with proper and acceptable customs and standards as established and followed by similar agricultural operations under similar circumstances.
 - The parcel is also an existing lot of record and one single detached dwelling is a permitted use as the lands were zoned to permit this as of December 16, 2004.
- The current or future owners may complain about the proximity to the poultry barn and odour originating from the facility.
 - Town staff are proposing the owner enter into a Development Agreement with the Town to be registered on title which will address driveway / building location matters and various warning clauses such as those related to the livestock facility's proximity and the potential to experience unpleasant odours etc. This Agreement runs with the land so that future owners are also made aware of these conditions / clauses prior to closing.
- Concerned about future land value of their property (which contain the poultry barn) in the event a prospective purchaser wishes to expand the poultry operation, they may be restricted in doing so.
 - This is true, all new or expanding livestock operations are required to comply with the MDS policies of the PPS, Greenbelt Plan, Regional Official Plan, Pelham Official Plan and Pelham Zoning By-law. All new livestock developments are required to undergo the MDS II formulae calculation. However, there already exists at least five (5) other neighbouring residential dwellings within the 300m MDS radius. Thus, the proposed dwelling alone is not the trigger for similar future zoning relief on a potential poultry barn expansion.

Planning Comments

Planning staff note the property is 5.4 ha (13 ac) in area, is farmed, and is a legally created, vacant lot of record. The subject lands are surrounded by the following:

North → CP Railway

East → Poultry Barn, rural residential dwellings

South → Rural residential dwellings, greenhouse

West → Rural residential dwellings, agricultural

The livestock facility in question is a purpose built broiler (poultry) barn constructed in approximately 1994 which is the origin of the Zoning By-law's MDS (*Minimum Distance Separation*) requirements in this case. Section 6.14 a) of the Pelham Zoning By-law enacts two MDS requirements for new residential uses adjacent to existing livestock buildings. The first is the calculated MDS I (1) setback as determined by OMAFRA (Ontario Ministry of Agriculture, Food & Rural Affairs), which is based on a prescribed formulae using standard inputs such as the type of livestock, size / capacity of the building, lot size and how the manure is handled among others. The MDS formulae are considered a *worst-case* scenario under policy. The second requirement is a *notwithstanding* baseline setback of 300 metres. The latter of which is the subject of this minor variance application, a reduction of the 300m baseline setback to 201m.

The Town is unaware of any previous odour complaints in the area around this existing poultry barn, though unused at this time, remains in good standing. Due to the prevailing westerly winds, any future odour impacts westward should continue to be minimal as the dwelling lies upward of the prevailing winds from the poultry barn.

The authorized agent submitted a Planning Justification Letter outlining the circumstances around his client's minor variance for MDS relief in the context of this neighbourhood. Principally, the letter points out the volume of existing residential dwellings located within the current MDS radius, the difference between the Zoning By-law's default baseline 300m setback requirement versus the calculated MDS setback using OMAFRA software. Planning staff generally agree with the applicant's planning rationale and its interpretation of the Zoning By-law's intent.

Staff recognize that, in other areas of the Town some conflict has arisen from new residents moving into existing dwellings next door to existing livestock operations. In some cases, these dwellings would not have been permitted under current MDS policies. However, in this case, given the proliferation of already existing residential neighbours well within the MDS radii, this would pose a similar challenge for any proposed expansion of the present livestock facilities (Figure 2). MDS II (2) formulae would be triggered under a proposed livestock facility expansion, and similarly, a minor variance for zoning relief may be applied for. Further, the proposed conditions below include that of a Development Agreement which would include a clause that the owner acknowledges his / her property is located within a calculated MDS radius and they may experience unpleasant odours from time to time.

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 Pelham 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 A27/2019P be **approved**, subject to the following conditions:

THAT

- Obtain approval from the Niagara Region Private Sewage Systems division for septic system compliance prior to building permit application.
- The applicant shall enter into a Development Agreement with the Town for the purposes of developing the lot to include:
 - Obtaining an Entrance Permit from the Public Works Department for the installation of a driveway / culvert, as applicable, in accordance with Town standards.
 - An owner warning clause specifying that, "The owner acknowledges that their property is located within a 300 metre baseline *Minimum Distance Separation* spatial requirement in the Town's Zoning By-law and that they may potentially, from time to time, experience unpleasant odours from an existing adjacent livestock operation."
 - An owner warning clause stating that, "Should deeply buried archaeological remains / resources be found on the property during construction activities, the Heritage Operations Unit of the Ontario Ministry of Tourism, Culture & Sport and the Owner's archaeology consultant shall be notified immediately. In the event that human remains are encountered

during construction, the Owner shall also immediately notify the Police or coroner and the Registrar of Cemeteries of the Ministry of Small Business and Consumer Services.”

- Restrictive covenant that the attached garage shall perpetually be prohibited from being converted into residential living space due to its location within the calculated MDS radius.
- All necessary building permits be obtained prior to construction commencing.

Prepared by,



Curtis Thompson
Planner, B.URPI

Approved by,



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

Memorandum

Public Works Department - Engineering

DATE: November 19, 2019
TO: Curtis Thompson, Planner
CC: Nancy J. Bozzato , Clerk; Holly Willford, Deputy Clerk; Jason Marr, Director of Public Works
FROM: Corey Sciarra, Engineering Technologist
RE: File A27/2019P
997 Canboro Road

Public Works has completed a review of the minor variance application A27/2019P for relief of Pelham Zoning By-Law 1136(1987), as amended. The application is made to seek relief from the following:

- Section 6.14 (a) – “New Development in or Adjacent to an Agricultural ‘A’ Zone or Special Rural ‘SR’ Zone” – to permit a reduction in the minimum distance separation 1 formula to facilities construction of a dwelling within 201m of a livestock or poultry operation whereas the by-law requires a 300m setback.

Public Works has the following comments:

- The driveway entrance needs to be constructed through a Driveway Entrance and Culvert Permit.

To: Nancy Bozzato, Holly Willford

Cc: Curtis Thompson, Sarah Leach

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

Date: November 20, 2019

Subject: Building Comments on Applications to the Committee of Adjustment for
Consents/Minor Variances – December 3, 2019 hearing. **File A27/2019P**

Comment:

A Building permit will be required for the proposed house and garage.

Belinda Menard
Building Intake/Plans Examiner
Community Planning & Development

Planning and Development Services

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7
905-980-6000 Toll-free: 1-800-263-7215

Via Email Only

November 20, 2019

File No.: D.17.06.MV-19-0058

Nancy Bozzato, Dipl.M.M., AMCT
Town Clerk/Secretary-Treasurer
Town of Pelham
20 Pelham Town Square, PO Box 400
Fonthill, ON L0S 1E0

Dear Mr./Ms. Bozzato:

**Re: Provincial and Regional Comments
Minor Variance Application
Town File A27/2019P
Applicant/Agent: Upper Canada Consultants
Owner: Peter and Alice Spyker
Address: 997 Canboro Road
Town of Pelham**

Regional Planning and Development Services staff has reviewed the above-noted minor variance application, which requests relief from the Minimum Distance Separation (MDS) 1 formula. The relief is requested to facilitate construction of a dwelling at 997 Canboro Road, which is in proximity to an existing poultry barn at 971 Canboro Road. The Zoning By-law includes a generic 300 metres (m) MDS setback from a livestock or poultry operation, which is not based on a site specific MDS calculation. The proposed variance would reduce the MDS setback to 201 m. The following Provincial and Regional Comments are provided to assist the Committee in their consideration of the application from a Provincial and Regional perspective.

Provincial and Regional Policies

The subject land is considered Prime Agricultural Land under the 2014 Provincial Policy Statement (PPS) and Protected Countryside under the 2017 Greenbelt Plan (GP). The permitted uses and activities for Prime Agricultural Lands are agriculture, agriculture-related, and on-farm diversified uses. Both the PPS and GP protect agricultural lands for long-term agricultural use, and state that proposed agriculture-related uses and on-farm diversified uses shall be compatible with, and shall not hinder, surrounding agricultural operations. The Regional Official Plan (ROP) designates the subject land as

Unique Agricultural Area. The predominant use of land in Unique Agricultural Areas is agriculture of all types, including livestock operations, as well as single detached dwellings on existing lots of record provided they were zoned for such as of December 16, 2004.

Minimum Distance Separation

The PPS (Policy 2.3.3.3) states that new land uses shall comply with the Minimum Distance Separation (MDS) formulae. The formulae are applied in order to separate uses to reduce incompatibility concerns about odour from livestock facilities. To aid in implementing this policy, the Ministry of Agriculture, Food and Rural Affairs (OMAFRA) released MDS Formulae and Guidelines for Livestock Facility and Anaerobic Digester Odour Setbacks (Publication 853) to assist municipalities, farmers, and consultants in implementing MDS as part of planning and development applications. The MDS I setback distances apply to proposed lot creation, rezoning or redesignations, building permits on existing lots, and as directed in local planning documents. In this case, the zoning by-law includes a minimum 300 m separation distance as opposed to direction to apply the MDS I formulae. If not for the 300 m minimum, Town staff would consider any MDS restrictions associated with the future construction of a dwelling as part of the building permit process. A minor variance is required to permit the application of the actual MDS, as calculated on a site specific basis.

An MDS I calculation for the proposed dwelling was submitted with the application. In the absence of floor plans or a site visit of the existing chicken barn to the east, the calculation was based on an aerial image estimate of the barn area. This aligns with the intent of the direction in Publication 853, which states that the calculation should be based on the design capacity, being the maximum number of livestock that can be housed in the barn and/or the maximum volume of manure that can be stored in the accessory building, and serves as a “worst case scenario” MDS calculation. Therefore, Regional staff have no objection to the reduction for the MDS from 300 m to 201 m based on this “worst case” calculation.

Regional staff note that municipalities are responsible for ensuring that MDS setbacks are met when reviewing land use planning applications or building permits. As such, the Committee should look for comments from the Town regarding the MDS setbacks.

Archaeological Potential

The Town of Pelham has an approved Heritage Master Plan and, therefore, has jurisdiction on matters related to archaeological resources. The Committee should refer to Town comments on any archaeological requirements or warning clauses respecting the possible discovery of deeply buried remains during construction.

Conclusion

In conclusion, Regional staff has no objections to the proposed minor variance from a Provincial or Regional perspective, given that the reduction is based on a worst case scenario calculation and that the Town is responsible for ensuring that MDS setbacks are met when reviewing land use planning applications. The Committee should look for comments from Town staff regarding the reduced MDS setback and archaeological potential.

Should you have any questions related to the above comments, please feel free to contact me at 905-980-600 ext. 3432 or Lola Emberson, MCIP, RPP, Senior Development Planner, at 905-980-6000 ext. 3518.

Please send a copy of the staff report from the Town and notice of the Committee's decision on this application when available.

Kind regards,



Britney Fricke, MCIP, RPP
Development Planner

cc: Lola Emberson, MCIP, RPP, Senior Development Planner, Niagara Region
Curtis Thompson, Planner, Town of Pelham

November 20, 2019



*FILE A27/2019P
PART LOT 20, CONCESSION 9
(PART 1 ON 59 R-520)*

To the Secretary-Treasurer

Concerning by-law 1136(1987) requiring a setback of 300m from a livestock or poultry barn and the request to the town for a relief to permit a dwelling within 201m of a livestock or poultry operation; it is our understanding that this by-law was instituted to negate noise and smell nuisances and complaints resulting from the operation of such farms.

There is no doubt that there is odours that arise from such operations and noises like truck traffic during late evening to early morning hours, as well as, general farm noises. We feel that if the by-law was to be amended to allow a dwelling within 201m of our farm operations that there would be constant complaints arising from living too close to a poultry barn. Even if the builders have no complaints to the nuisances that arise from normal farm operations, if and when they decide to sell their home; the new owners may differ in opinion and cause problems with complaints because of the noise and odours caused by normal operations of a poultry farm.

We also object to this by-law change because of the impact on our land value as a poultry farm and the ability for a buyer to expand operations. We have had significant interest by producing poultry farmers to buy our farm and feel it would impact our farm's value due to the possibility of a buyer not being able to expand the farm because of the infill of houses on farmland within 201m of the existing barn and the possibility of nuisance complaints.

Farmer's don't enjoy listening and dealing with complaints due to normal operations of a farm because someone wanted to move to the country and build a house on farmland.

Thank you for your attention to this matter

Henk and Helen Fennema
Canboro Rd, Fenwick ON

Meeting #: 08/2019
Date: Tuesday, August 13, 2019
Time: 4:00 pm
Location: Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

Members Present Bill Sheldon
John Klassen
Sandra Marsh

Staff Present Nancy Bozzato
Sarah Leach

Others Present Applicants, Authorized Agents and Interested Citizens

1. Attendance

Applicants, agents and interested parties.

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

Noting that a quorum was present, Chair Sheldon called the meeting to order at approximately 4:00 pm. The Chair read the opening remarks to inform those present on the meeting protocols and he introduced the hearing panel and members of staff present.

3. Disclosure of Pecuniary Interest and General Nature Thereof

There were no pecuniary interests disclosed by any of the members present.

4. Requests for Withdrawal or Adjournment

In order to address concerns expressed by the Niagara Peninsula Conservation Authority, the applicant for A21/2019P - 594 River Road requested that this application be deferred to a later date.

Moved By Sandra Marsh

Seconded By John Klassen

THAT application A21/2019P – 594 River Road be adjourned, sine die.

5. Applications for Minor Variance

5.1 A18/2019P - 241 Farr Street - Lot '2'

The applicant, noted the concern from a neighbor relating to the septic bed, has been addressed. He noted an adjoining lot was recently approved, and also a French drain which has proven adequate, and this is proposed for this specific lot. He suggested that the house proposed on this site is well suited to the site.

A member noted that the drain design has been prepared by an Ontario Land Surveyor, whereas an engineered design may be more suitable, and it was questioned if an engineer has had any feedback as to whether the proposal will be suitable. Mr. Hyde, agent, was present and advised that they considered bringing an Engineer for review however they are comfortable that the proposal will be suitable. He noted that the Director of Public Works will need to be satisfied. The Member again advised that he would be more confident if there were an Engineer's approval. Mr. Hyde advised that the area being noted as a pond, is not one that has fish and is more of a seasonal water collecting area, in the spring.

It was noted that the area showing like a pond is natural and it was questioned how deep this area gets. The applicant advised that the deepest he has seen was six to eight inches. He met with the Niagara Peninsula Conservation Authority although this is not within their screening area. They cleared the site immediately.

Mr. Hyde advised that water does not go through the property, but the entire field is not open water. The applicant advised that when he walked the site with the Conservation Authority, the site was dry. He indicated that the lands are dry at this point in time as well, and although there is a depression on the site, it is not a flowing watercourse.

The Chair noted that if the water flows north and the water course from the south east is man made to drain agricultural fields

The applicant suggested this is a natural swale. In the spring, the water may swale and travel but it is very limited, and again he confirmed this with the Conservation Authority.

When asked if the applicant, as the builder, had any concern that a basement will be flooded once this dwelling is constructed, with the applicant advising that the property will be graded and he did not have concern about flooding. He explained how the swales will be constructed, as well as the French Drain, which has been very effective in this type of circumstance.

The applicant advised that these lots were created by Testamentary Devise and he questioned any requirement to obtain Conservation Authority approval, and it was noted that this land is outside of their jurisdiction.

On a neighbouring property, he was required to have Conservation Authority involvement and again he advised that they have no concerns.

Moved By John Klassen

Seconded By Sandra Marsh

Application is made for relief of Section 7.4 (f) “Minimum Side Yard” to permit a north and south side yard of 5.5m whereas the by-law requires 9m, to facilitate the construction of a single detached dwelling and garage, is hereby: GRANTED.

The above decision is based on the following reasons:

- 1. The variance is minor in nature.**
- 2. The general purpose and intent of the Zoning By-Law is maintained insofar as adequate spatial separation is maintained between the neighbouring parcels.**
- 3. The intent of the Official Plan is maintained.**
- 4. The proposal is desirable for the appropriate development and/or use of the land as it will encourage the dwelling to be located further away from the septic bed.**
- 5. This application is granted without prejudice to any other application in the Town of Pelham.**
- 6. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.**

The above decision is subject to the following conditions:

1. That all necessary building permits are required prior to construction commencing, to the satisfaction of the Chief Building Official.
2. Prior to the issuance of Building Permits written documentation be provided to the satisfaction of the Chief Building Official that:
 - a. The applicant must apply for a Driveway Entrance & Culvert Permit(s) prior to gaining driveway access from the Town right-of-way.
 - b. The applicant must submit a comprehensive Overall Lot Grading & Drainage Plan to the satisfaction of the Director of Public Works.
 - c. Provide a detailed *Lot Grading & Drainage Plan* with the Septic Permit Application and obtain approval of the same, to be issued by the Region of Niagara.

Carried

5.2 A19/2019P - 237 Farr Street Lot '3'

The applicant indicated that all comments are the same as those for the previous file.

Moved By Sandra Marsh

Seconded By John Klassen

Application is made for relief of Section 7.4 (c) "Maximum Lot Coverage" to permit a maximum lot coverage of 12.02% whereas the by-law permits 10%, is hereby: GRANTED.

The above decision is based on the following reasons:

1. The variance is minor in nature.
2. The general purpose and intent of the Zoning By-Law is maintained.
3. The intent of the Official Plan is maintained.

4. The proposal is desirable for the appropriate development and/or use of the land as it allows for larger footprint buildings to be erected and offer more design flexibility.
5. This application is granted without prejudice to any other application in the Town of Pelham.
6. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.

The above decision is subject to the following conditions:

1. That all necessary building permits are required prior to construction commencing, to the satisfaction of the Chief Building Official.
2. Prior to the issuance of Building Permits written documentation be provided to the satisfaction of the Chief Building Official that:
 - a. The applicant must apply for a Driveway Entrance & Culvert Permit(s) prior to gaining driveway access from the Town right-of-way.
 - b. The applicant must submit a comprehensive Overall Lot Grading & Drainage Plan to the satisfaction of the Director of Public Works.
 - c. Provide a detailed Lot Grading & Drainage Plan with the Septic Permit Application and obtain approval of the same, to be issued by the Region of Niagara.

Application is made for relief of Section 7.4 (f) “Minimum Side Yard” to permit a north side yard of 3.0m whereas the by-law requires 9m, to facilitate the construction of a single detached dwelling and garage, is hereby: **GRANTED**.

The above decision is based on the following reasons:

1. The variance is minor in nature.
2. The general purpose and intent of the Zoning By-Law is maintained.
3. The intent of the Official Plan is maintained.

4. The proposal is desirable for the appropriate development and/or use of the land it will encourage the dwelling to be located further away from the septic bed.
5. This application is granted without prejudice to any other application in the Town of Pelham.
6. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.

The above decision is subject to the following conditions:

1. That all necessary building permits are required prior to construction commencing, to the satisfaction of the Chief Building Official.
2. Prior to the issuance of Building Permits written documentation be provided to the satisfaction of the Chief Building Official that:
 - a. The applicant must apply for a Driveway Entrance & Culvert Permit(s) prior to gaining driveway access from the Town right-of-way.
 - b. The applicant must submit a comprehensive Overall Lot Grading & Drainage Plan to the satisfaction of the Director of Public Works.
 - c. Provide a detailed Lot Grading & Drainage Plan with the Septic Permit Application and obtain approval of the same, to be issued by the Region of Niagara.

Application is made for relief of Section 7.4 (f) "Minimum Side Yard" to permit a south side yard of 6.3m whereas the by-law requires 9m, to facilitate the construction of a single detached dwelling and garage is hereby: **GRANTED.**

The above decision is based on the following reasons:

1. The variance is minor in nature.
2. The general purpose and intent of the Zoning By-Law is maintained.
3. The intent of the Official Plan is maintained.

4. The proposal is desirable for the appropriate development and/or use of the land it will encourage the dwelling to be located further away from the septic bed.
5. This application is granted without prejudice to any other application in the Town of Pelham.
6. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.

The above decision is subject to the following conditions:

1. That all necessary building permits are required prior to construction commencing, to the satisfaction of the Chief Building Official.
2. Prior to the issuance of Building Permits written documentation be provided to the satisfaction of the Chief Building Official that:
 - a. The applicant must apply for a Driveway Entrance & Culvert Permit(s) prior to gaining driveway access from the Town right-of-way.
 - b. The applicant must submit a comprehensive Overall Lot Grading & Drainage Plan to the satisfaction of the Director of Public Works.
 - c. Provide a detailed Lot Grading & Drainage Plan with the Septic Permit Application and obtain approval of the same, to be issued by the Region of Niagara.

Carried

5.3 Applications for Consent

5.3.1 B7/2019P - 1146 Maple Street

The applicant noted that she does not support the requirement for location of water and sanitary lateral lines for the existing dwelling. Mr. Klassen did not support removal of this condition, nor did Ms. Marsh. The applicant was unaware of the age of the dwelling. She noted that both parcels are two separate lots, but

this boundary adjustment is required to ensure that the barn does not straddle the boundary line. The driveway is also situated within the lands to be transferred.

Moved By John Klassen

Seconded By Sandra Marsh

Application is made to seek consent to convey 426.9 m² of land, shown as Part 3 on the drawing submitted, being part of Lots 8 and 9, Registered Plan 703, in the Town of Pelham to merge with the abutting land (Part 1) for the continued use of a barn and single detached dwelling. Part 2 is being retained for a future residential building lot is hereby: GRANTED

This decision is based on the following reasons:

- 1. The application conforms to the policies of the Town of Pelham Official Plan, Regional Policy Plan and Provincial Policy Statement, and complies with the Town's Zoning By-law.**
- 2. No objections to this proposal were received from commenting agencies or neighbouring property owners.**
- 3. This Decision is rendered having regard to the provisions of Sections 51(24) and 51(25) of the Planning Act, R.S.O., as amended.**
- 4. The Committee of Adjustment considered all written and oral submissions and finds that, subject to the conditions of provisional consent, this application meets Planning Act criteria, is consistent with the Provincial Policy Statement and complies with the Growth Plan, the Niagara Region Official Plan and the Town Official Plan.**

The above decision is subject to the following conditions:

To the satisfaction of the Secretary-Treasurer

- 1. Pursuant to Section 50(12) of the Planning Act, R.S.O. 1990, as amended, it is hereby stipulated that Section 50(3) or 50(5) shall apply to any subsequent conveyance of, or other transaction involving, the identical subject parcel of land. Therefore, once the subject parcel of land has been conveyed to the owner of the parcel abutting to the north**

the subject parcel and the said abutting parcel shall merge in title and become one contiguous parcel of land. A solicitor's written undertaking shall be provided to the Secretary-Treasurer indicating that the necessary steps to implement the conveyance will be taken, together with the registrable legal descriptions of the subject parcel and the consolidated parcel.

- 2. That the Secretary-Treasurer be provided with a registrable legal description of the subject parcel, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.**
- 3. That the final certification fee of \$387, payable to the Treasurer, Town of Pelham, be submitted to the Secretary-Treasurer. All costs associated with fulfilling conditions of consent shall be borne by the applicant.**
- 4. That final approval of all necessary minor variances be obtained.**

To the Satisfaction of the Direct of Public Works

- 5. Ensures both lots are services with individual 20 mm Ø water service and 125 mm Ø sanitary sewer laterals in accordance with Town standards. Installation of any missing services will require Temporary Works Permits obtained through the Public Works department. If existing services are proposed for reconnection, such services shall be inspected by Town staff to ensure satisfactory condition prior to connection. Temporary Works Permit(s) will be required and the applicant shall bear all costs associated with these works.**
- 6. Submit a drawing indicating the location of the individual water service and sanitary lateral for both lots to confirm no services branch from, or through the proposed lot lines to other lands, and from or through the remnant parcel to other lands. Locate cards for both lots shall be submitted after service installation.**
- 7. Submits a comprehensive Lot Grading & Drainage Plan for both parcels demonstrating that the drainage neither relies, nor negatively impacts neighbouring properties, and that**

all drainage will be contained within the respective lots, to the satisfaction of the Director of Public Works.

8. Obtain approval for a Driveway Entrance & Culvert Permit from the Public Works department, in accordance with Town standards. The applicant shall bear all costs associated with these works.

Carried

5.3.2 A20/2019P - 1146 Maple Street

Moved By Sandra Marsh

Seconded By John Klassen

Application is made for relief of Section 9.2 (b) “Minimum Lot Frontage” to permit a minimum lot frontage of 17m whereas 18m is required, is hereby: GRANTED.

The above decision is based on the following reasons:

1. The variance is minor in nature given the surrounding area; smaller lot sizes are increasingly becoming common.
2. The general purpose and intent of the Zoning By-Law is maintained.
3. The intent of the Official Plan is maintained.
4. The proposal is desirable for the appropriate development and use of the land as the narrower frontage will help preserve the existing barn.
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.
7. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.

The above decision is subject to the following conditions:

- 1. That the approval of the minor variance is subject to Consent File B7/2019P obtaining final approval.**

Carried

5.4 A21/2019P - 594 River Road

This application was adjourned sine die.

6. Minutes for Approval

None.

7. Adjournment

Moved By John Klassen

Seconded By Sandra Marsh

BE IT RESOLVED THAT this Meeting of the Committee of Adjustment Hearing be adjourned until the next regular meeting scheduled for September 10th, 2019 at 4:00 pm.

Carried

Bill Sheldon, Chair

Secretary-Treasurer, Nancy J. Bozzato