



In the matter of the Planning Act; Revised Statutes of Ontario, 1990, and In the matter of an application on behalf of:

NOTICE OF DECISION

WHAT:

FILE A27/2019P

WHO:

997 Canboro Road, Pelham

Part Lot 20, Concession 9 (Part 1 on 59R-500)

FOR MINOR VARIANCE AND RELIEF FROM RESTRICTED AREA ZONING BY-LAW #1136(1987), AS AMENDED:

Application for relief of 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 facilitate construction of a dwelling within 201m of a livestock or poultry operation whereas the by-law requires a 300m setback is hereby:

DECISION:

☒ **GRANTED**

☐ **REFUSED**

Granted

The above decision is based on the following reasons:

[Signature]

Don Cook, Chair

Bill Sheldon, Member

[Signature]

Sandra Marsh, Member

**PLEASE REFER TO SCHEDULE A ATTACHED HERETO
FOR CONDITIONS AND REASONS**

Information



TOWN OF PELHAM COMMITTEE OF ADJUSTMENT

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[Signature]
Nancy J. Bozzato, Dipl. M.M., AMCT
Town Clerk / Secretary-Treasurer

Date of Decision: December 3, 2019

Date of Mailing: December 5, 2019

I hereby certify this to be a true copy of the decision of the Committee of Adjustment for the Town of Pelham in the Regional Municipality of Niagara and this decision was concurred in by the majority of the members who heard the application.

IMPORTANT INFORMATION!

**Last day for filing an appeal of this decision to the Local Planning Appeal Tribunal is
Monday, December 23, 2019.**

PROCEDURE FOR APPEAL

The Planning Act, R.S.O. 1990, Section 45, Subsection 12, as amended states that the applicant, the Minister or any other person or public body who has an interest in the matter may within **twenty (20) days** of the making of the decision appeal to the Appeal Tribunal against the decision of the Committee by filing with the Secretary-Treasurer of the Committee the prescribed Appellant Form (A1) available from the Secretary-Treasurer or from the LPAT website at www.elto.gov.on.ca, together with payment to the Secretary-Treasurer of the fee prescribed by the Municipal Board under the **Local Planning Appeal Tribunal Act** as payable on an appeal from a Committee of Adjustment to the Board. The prescribed fee for an appeal to the Local Planning Appeal Tribunal is \$300.00 payable to the Minister of Finance, by certified cheque. Any person wishing to participate in an LPAT proceeding shall file a written participant statement setting out their position on the matter and issues of the proceeding, together with an explanation of reasons supporting the position. A participant may only make submissions to the Tribunal in writing, or in accordance with the LPAT Rules of Practice and Procedure.

SCHEDULE A – Page 1 of 1**FILE A27/2019P – 997 Canboro Road, Pelham**

This is Schedule A, appended to and forming part of the Notice of Decision for Minor Variance Application A27/2019P.


Application for relief of 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 facilitate construction of a dwelling within 201m of a livestock or poultry operation whereas the by-law requires a 300m setback is required is hereby:

DECISION:☒ **GRANTED**☐ **REFUSED**

1. The variance is minor in nature 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.
 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 would provide for the development of a single detached dwelling.
 5. This application is granted without prejudice to any other application in the Town of Pelham.
- 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. Obtain approval from the Niagara Region Private Sewage Systems division for septic system compliance prior to building permit application.
3. The applicant shall enter into a Development Agreement with the Town for the purposes of developing the lot to include:
 - a. Obtaining an Entrance Permit from the Public Works Department for the installation of a driveway / culvert, as applicable, in accordance with Town standards.
 - b. 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."
 - c. 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."
 - d. 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.



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

Town Clerk / Secretary-Treasurer

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