

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 m<sup>2</sup> / 2773 ft<sup>2</sup>) 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 15<sup>th</sup> 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 m<sup>2</sup> / 2773 ft<sup>2</sup> 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 m<sup>2</sup> (450 ft<sup>2</sup>) 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