
February 4, 2019

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

Re: Minor Variance - Application A5/2020P
1121 Effingham Street, Pelham
Concession 9, Part of Lots 5-6, and Part of Road Allowance (closed by RO778042)
Roll No. 2732 030 012 04600

The subject land is located on the east side of Effingham Street, lying north of Welland Road, legally described above, and known municipally as 1121 Effingham Street.

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

- **Section 7.7 a) "Max Accessory Lot Coverage"** seeking 2.1 %, whereas 1% is permitted.
- **Section 7.7 d) "Max Accessory Building Height"** seeking 6 m, whereas 3.7m is permitted.

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).

Policy 2.6.2 states *development* and *site alteration* shall not be permitted on lands containing *archaeological resources* or *areas of archaeological potential* unless significant *archaeological resources* have been *conserved*.

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.

Policy 10.C.2.1.13 states that *development* and *site alteration* shall only be permitted on lands containing *archaeological resources* or *areas of archaeological potential* if the significant *archaeological resources* have been *conserved* by removal and documentation, or by preservation on site.

Regional staff are requesting that, as a condition of approval, a Stage 1-2 Archaeological Assessment, prepared by a licensed archaeologist, be required for the areas of the property subject to the proposed disturbance.

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.

Policy D4.3 Archaeological Resources – states that Council recognizes that there are archaeological remnants of pre-contact and early historic habitation as well as archaeological potential areas within the Town. Council shall require archaeological assessments and the preservation or excavation of significant archaeological resources in accordance with Provincial guidelines, requirements and protocols.

Based on the Town's Heritage Master Plan, the subject lands are identified as having high potential for deeply buried archaeological material. This is likely a result of its proximity two watercourses and a historic transportation route.

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 = 2.1% |
| 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.	<p>The variance to increase accessory building lot coverage to 2.1 % is minor overall as adequate land area remains available to handle stormwater runoff, the septic system and preserve a rear yard amenity area.</p> <p>Increasing the accessory building height to 6 m is minor given the rural context. No negative impacts are anticipated by the adjacent neighbors as over 20m separates the nearest residential neighbour</p>

	from the building site together with some large deciduous trees acting as an addition buffer screen.
2. The variance is desirable for the development or use of the land.	<p>Increasing the accessory building lot coverage is desirable for the land because it will allow for enhanced use of the rural residential property which is relatively small in size and constrained for an agricultural area or traditional farming operation.</p> <p>The variance request to increase the accessory building height is desirable for the property as it allows for enhanced storage and use of the facility. The adjacent dwelling to the south is setback over 20m and is buffered by some large deciduous trees. No adverse impacts are anticipated on the surrounding lands.</p>
3. The variance maintains the general intent and purpose of the Official Plan.	<p>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. Given the proposed location of the accessory building, the requested increase in building height will not compromise the objectives of the Official Plan, particularly with respect to land use compatibility, storm water runoff and private sewage system servicing capabilities.</p> <p>The requested increase of accessory building lot coverage directly impacts the development's horizontal footprint upon the lands. Given the high potential for discovery of archaeologically significant resources, without the benefit of an archaeological assessment confirming otherwise, this increased lot coverage variance in the proposed location is considered to conflict with Policy D4.3. However, pending a Ministry archaeological clearance resulting from an Archaeological Assessment, this would conform with the Official Plan. As a result, Town and Regional staff have recommended an archaeological assessment / Clearance as a condition of approval.</p> <p>The variances are appropriate given the site's rural context and 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, and increased lot coverage to 2.1 % is appropriate given the rural context. Reasonable amounts of open space remain available on the site for amenity area, stormwater runoff and sewage system purposes, thus the increased height and lot coverage will not adversely impact the rural character of the area or the surrounding countryside. The variance maintains the intent of the Zoning By-law with respect to accessory building massing, siting and locational scale.

Agency / Public Comments

On January 9th 2020, 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:

- Niagara Peninsula Conservation Authority Planning & Development Services (January 13, 2020)
 - No objections.
- Niagara Region Planning & Development Services (January 13, 2020)
 - Requesting the applicant conduct a Stage 1-2 Archaeological Assessment, prepared by a licensed archaeologist, as a condition of approval.
 - No objections respecting natural heritage policies.
 - No objections respecting private septic system regulations.
- Public Works Department (January 27, 2020)
 - The proposed driveway requires an Entrance Permit obtained through the Public Works department. The applicant shall bear all costs associated with these works.
- Building Department (January 21, 2020)
 - A building permit will be required.

One (1) public comment was received and is summarized as follows:

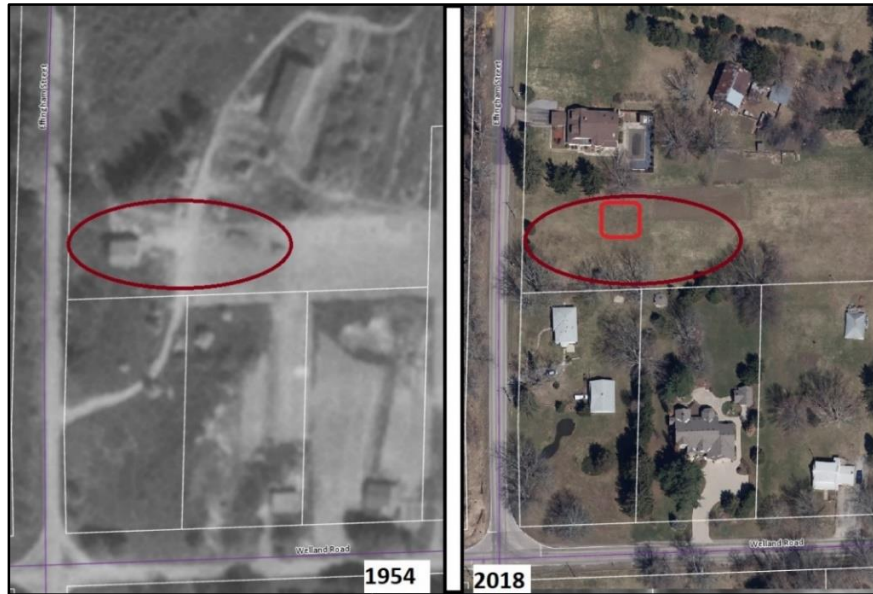
- The proposed garage is situated in a bad location due to its topography, its vertical impact is even more pronounced.
 - Planning staff agree and would rather have seen the proposed garage be located north / northeast of the principle residence and within the cluster of buildings. However, the septic system is located directly north of the residence which restricts construction and vehicle access in that area.
- Concern that the proposed placement and height of the garage will decrease the real estate value of 1109 Effingham Street.
 - There is no evidence present that would indicate a reduced real estate valuation.
- Suggests relocating the garage closer to the principle residence or further to the rear.
 - Normally Planning staff would echo the good practice of locating the buildings closer together within the existing cluster. However, as described above regarding the septic system constraint to the north and also mature trees flank the south wall of the dwelling and would need to be removed should the building relocate in this direction. In terms of relocating the garage to the rear, it may help reduce the vertical impact, but it will also result in a much larger driveway which usually is associated with additional impervious surface and stormwater runoff.

Planning Comments

The subject lands are surrounded by rural residential dwellings, large open spaces and some pockets of *significant woodlands*. The proposed minor variance to increase the accessory lot coverage and accessory building height should not facilitate any adverse impacts with regards to land use incompatibility, storm water runoff or privacy etc. However, the variance for increased accessory lot coverage may adversely impact local cultural heritage and archaeological resources which conflicts with Provincial policy, Regional and Town Official Plan policies.

After reviewing historical aerial imagery (1934 / 1954), it appears there was a former building aligned longitudinally with the proposed accessory building, with a similar footprint. However, this structure was setback approximately 18 m from the eastern limits of Effingham Street (Figure 1). Whereas the proposed accessory building is situated 28.5 m from Effingham Street.

Figure 1: Aerial imagery of the subject lands from 1954 – 2018



Considering the proposed building's location, Planning staff can infer the proposed location is not considered to be heavily disturbed which would otherwise have been grounds to waive any archaeological assessment requirement of the Region and Town.

Town Planning staff recognize the Region of Niagara is comfortable supporting the proposed development with the benefit of a condition of approval requiring the submission of a stage 1-2 archaeological assessment. Town Planning staff agree and will also be recommending the condition for the archaeological assessment be submitted to the Ministry of Heritage, Sport, Tourism & Culture for a standard Clearance Letter prior to issuance of a building permit.

Planning Staff is of the opinion that the application has satisfied the *Planning Act*, is consistent with the PPS and conforms to Provincial, Regional, and local plans. The proposal is compatible with adjacent uses and the rural agricultural character of the area.

The authorization of the minor variance is not expected to generate negative impacts on adjacent uses or the community at large. Consequently, Planning Staff recommend that Application File Number A5/2020P **be approved**, subject to the following conditions.

THAT

- The applicant conduct a Stage 1-2 Archaeological Assessment prepared by a licensed archaeologist and receive clearance from the Ministry of Heritage, Sport, Tourism & Culture prior to the issuance of a building permit.
- Obtain approval for a Driveway Entrance & Culvert Permit prior to the issuance of a building permit to the satisfaction of the Director of Public Works.

Prepared by,

Curtis Thompson
Planner, B.URPI

Approved by,

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