

March 3, 2020

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

Re: Minor Variance - Application A8/2020P
415 Canboro Road, Pelham
Concession 8, Part of Lot 8
Roll No. 2732 020 013 08902

The subject land is located on the north side of Canboro Road, lying west of Effingham Street, legally described above and known municipally as 415 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 proposed accessory building requests zoning relief through a minor variance application as follows:

- **Section 7.7 a) "Max Accessory Lot Coverage"** seeking 2 %, whereas 1% is permitted.
- **Section 7.7 d) "Max Accessory Building Height"** seeking 4.22 m, whereas 3.7m is permitted.

The proposal is for the construction of a 59.5 m² (640 ft²), 1-storey detached garage which has more or less, been built. The requested lot coverage is not required, but is sought in order to legalize an existing *legal non-complying* situation originating from the original accessory building which was situated in generally the same location as the proposed garage. The requested building height stems from the owner's misjudgment in ordering trusses / lumber.

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*.

The proposed detached garage is situated in generally the same location of the existing accessory building's footprint.

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.

Regional staff have no comments for the proposed development.

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. However, because the new detached garage is situated generally within the same footprint of the former accessory building, the site is considered to be heavily disturbed and does not warrant an archaeological assessment.

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

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|----------------------------|-------|------------------|
| a) Maximum Lot Coverage | 1 % | Request = 2 % |
| d) Maximum Building Height | 3.7 m | Request = 4.22 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.	The variance to increase accessory building lot coverage to 2 % is minor overall as adequate land area remains available to handle stormwater runoff, the septic system and preserve a rear yard amenity area.

	<p>Increasing the accessory building height to 4.22 m is minor given the rural context. No negative impacts are anticipated by the adjacent neighbors as over 60 m separates the nearest residential neighbour from the building site together with some large caliper trees acting as an additional buffer screen.</p>
<p>2. The variance is desirable for the development or use of the land.</p>	<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 dwellings are setback over 60 m and are either buffered by some large caliper trees or existing structures. No adverse impacts are anticipated on the surrounding lands.</p>
<p>3. The variance maintains the general intent and purpose of the Official Plan.</p>	<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, an archaeological assessment confirming otherwise, would normally be required. However, considering the proposed garage's location being more-or-less in the same location of the former accessory building, the requirement is not warranted.</p> <p>The variances are appropriate given the site's rural context and meet the general intent of the Town Official Plan policies.</p>
<p>4. The variance maintains the general intent and purpose of the Zoning By-law.</p>	<p>The size of the proposed accessory building's height to 4.22 m, and increased lot coverage to 2 % 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.</p>

Agency / Public Comments

On January 31st 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 Region Planning & Development Services (February 3, 2020)
 - No comments.
- Public Works Department (February 25, 2020)
 - No comments.
- Building Department (February 18, 2020)
 - A building permit will be required.

No public comments were received at the time of this writing.

Planning Comments

The subject lands are surrounded by rural residential dwellings to the east & west, agricultural to the north, and a post office / church to the south. The applicant has expressed that the requested height resulted from an error in judgment while ordering the lumber and did not learn of the matter until the Town's Building Inspector discovered the zoning issue. Again, the Committee should be aware that the requested lot coverage is technically not required to finish the building but is merely desired in order to recognize the status of the former *legal non-complying* accessory building's footprint. The requested accessory building height, however, is required in order to complete the active building permit. Without the requested height being legalized, the applicant will be forced to reduce the height of the structure, appeal the decision of the Committee of Adjustment or seek a rezoning from Town Council.

Considering the proposed accessory building's footprint in relation to its *legal non-complying* predecessor's, Planning staff can infer the ground around proposed location is considered to be heavily disturbed and warrants the waiving of an archaeological assessment requirement by the Town.

The Region of Niagara offered no comments or objections to the proposed minor variance from a Regional or Provincial planning perspective.

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.

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 A8/2020P **be approved**.

Prepared by,



Curtis Thompson
Planner, B.URPI

Approved by,



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