

July 21, 2020

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

Re: Minor Variance Application A19/2020P
1328 Effingham Street, Pelham
Concession 8, Part of Lot 6, and Part 1 on RP 59R-6785
Roll No. 2732 020 013 04200

The subject land is located on the west side of Effingham Street, lying south of Canboro Road, legally described above, and known locally as 1328 Effingham Street 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:

- i. **Section 7.4 (f) "Minimum Side Yard"** seeking 0.6 m, whereas 9 m is required.

The proposal seeks to replace an existing attached garage (built in 1907) at the same side yard setback but with additional height via a ½ - storey.

Applicable Planning Policies

Provincial Policy Statement (PPS) (2020)

The Provincial Policy Statement (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. The PPS provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment.

Section 3 of the *Planning Act* requires that decisions affecting planning matters "shall be consistent with" policy statements issued under the *Act*. The PPS recognizes the diversity of Ontario and that local context is important. Policies are outcome-oriented, and some policies provide flexibility provided that provincial interests are upheld. PPS policies represent minimum standards.

The subject land is located in a 'Prime Agricultural Area' according to the PPS. 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).

Regional Official Plan (Consolidated August 2014)

The Regional Official Plan designates the subject parcel as 'Protected Countryside' and 'Unique Agricultural Area'.

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

Pelham Official Plan (2014)

The Town of Pelham Official Plan is the primary planning document that will direct the actions of the Town and shape growth that will support and emphasize Pelham's unique character, diversity, cultural heritage and protect our natural heritage features.

The local 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 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.

The proposed development application was accompanied by a Site Plan, Floor Plan and Elevation Plans. The Region of Niagara, whom is responsible for reviewing private sewage servicing on all rural properties has advised that any new living space or plumbing fixtures would require an upgraded private septic system in accordance with the *Ontario Building Code*. It should be noted that the proposed attached garage is mostly a replacement of the existing attached garage in essentially the same footprint with a small expansion to the rear and a 0.5-storey vertical addition. Planning staff are of the opinion the proposed variance will conform to the Official Plan, including Policy A2.1.2, subject to conditions.

Pelham Zoning By-law No. 1136 (1987), as amended

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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 reduction of the minimum side yard setback is minor overall because the existing <i>legal non-complying</i> attached garage (situated in the same footprint) has not posed any adverse impacts to the abutting neighbour that staff are aware of. Subject to demonstration that stormwater runoff will continue to be adequately conveyed by overland drainage along the north property line, Planning staff are of the opinion the zoning request is minor in nature.
2. The variance is desirable for the development or use of the	The reduction of the minimum side yard setback is desirable because it will allow for a 2 nd floor to be constructed above the garage and be of a higher built quality than the original 1907 structure.

land.	
3. The variance maintains the general intent and purpose of the Official Plan.	The variance maintains the general purpose and intent of the Official Plan because the agricultural character of the area is not compromised any more than what has already transpired with the various rural residential lots developed around the subject land and the existing <i>legal non-complying</i> structure. The community character will be maintained, the use is permitted, and no adverse impacts are anticipated by any neighbours.
4. The variance maintains the general intent and purpose of the Zoning By-law.	The variance maintains the general intent of the Zoning By-law because Section 6.15 (b) allows for the rebuilding of <i>legal non-complying</i> uses subject to any other applicable performance standard. The requested side yard setback is connected with the enlarged footprint, but the intent of the Zoning By-law will be upheld if subject to the proposed conditions of approval.

Agency & Public Comments

On July 21, 2020, a notice of public hearing was circulated by the Secretary Treasurer of the Committee of Adjustment to applicable agencies, Town departments, and to all assessed property owners within 60 metres of the property's boundaries.

To date, the following comments have been received:

- Niagara Peninsula Conservation Authority (June 24, 2020)
 - No objections.
- Niagara Region (July 9, 2020)
 - See attached.
 - The proposed garage cannot have any living space, bedrooms or plumbing fixtures, as this would warrant a new private sewage system under current building code requirements.
 - No objections, subject to conditions.
- Building Department (July 15, 2020)
 - Building permit(s) are required.
- Public Works Department (July 15, 2020)
 - See requested condition.

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

Planning Staff Comments

The subject lands are located on the west side of Effingham Street, lying south of Canboro Road. The property is surrounded by rural residential lots on all sides except the west, which supports some fragmented agricultural operations.

The proposed minor variance application seeks zoning relief to reduce the side yard setback from 8 m to 0.6 m. The existing attached garage and house were built in 1907 according to MPAC records. The original attached

garage has a footprint only 8.9 m² smaller than the proposed replacement and shares the same 0.6 m side yard setback. The minor variance is triggered for two reasons, (1) the vertical addition and (2) the slight horizontal expansion to the rear (west).

Planning staff are of the opinion that the proposal applies current planning and development principles dealing with appropriate development and making efficient use of the existing rural residential lot in keeping with the rural character of Ridgville. The proposed minor variances should not negatively impact the surrounding land uses with regards to land use incompatibility, traffic, privacy and storm water runoff.

In Planning staff's opinion, the application is consistent with the PPS and conforms to Provincial, Regional, and local plans.

Given this analysis, Planning staff recommend that minor variance file A13/2020P **be approved** subject to the following conditions:

THAT the applicant

- Submit a comprehensive overall Lot Grading Plan, illustrating overland drainage routes on the property, with special attention to how the reduced side yard will affect drainage routes along the north lot line, to the satisfaction of the Director of Public Works. Drainage is not permitted to adversely impact neighbouring properties.
- Obtain building permit approval ensuring that no living space, bedrooms or plumbing fixtures are included on the proposed addition.

Prepared by,



Curtis Thompson, B.URPI
Planner

Approved by,



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