

August 10, 2020

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

Re: Minor Variance Application A21/2020P
590 Canboro Road, Pelham
Concession 9, Part of Lot 11 and Part 1 on RP 59R-9296
Roll No. 2732 010 014 13310

The subject land is located on the southeast corner of Canboro Road and Cream Street, legally described above, and known locally as 590 Canboro Road in the Town of Pelham.

The subject land is zoned 'Agricultural – 127' (A-127) in accordance with Pelham Zoning By-law 1136 (1987), as amended. The minor variance application requests relief from:

- i. **Section 7.4 (e) "Minimum Exterior Side Yard"** seeking 2.43 m, whereas 8 m is required, to recognize the existing *legal non-complying* dwelling; and
- ii. **Section 7.4 (e) "Minimum Exterior Side Yard"** seeking 3.85 m, whereas 8 m is required, to construct a $\pm 56.4 \text{ m}^2$, 2-storey residential addition to the north.

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).

Greenbelt Plan (2017)

The subject land is designated 'Tender Fruit & Grape Lands' (*Specialty Crop Area*) within the Greenbelt Plan's *Protected Countryside*.

Section 3.1.2 (Specialty Crop Area Policies) states that for lands falling within *specialty crop areas* of the

Protected Countryside all types, sizes and intensities of agricultural uses and *normal farm practices* shall be promoted and protected.

The proposed residential addition is relatively small in scale and will not compromise the ability for the subject land to be farmed any more than the limitations posed by its existing undersized rural residential lot area. These small rural residential lots are characteristic of this neighbourhood along Canboro Road which has a highly fragmented parcel fabric.

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.

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, the applicant cease all excavation activities should deeply buried archaeological resources be discovered, and that the Ministry of Heritage, Sport, Tourism and Culture be notified.

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.

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 to watercourses and historic transportation

routes. Considering the proximity of the addition to the existing dwelling, and that the majority of the addition is a carport built above a floating slab, only a narrow wall will require full foundation footings. Town staff are comfortable waiving the requirement for an archaeological evaluation subject to the recommended condition below.

The proposed development application was accompanied by a Site Plan, Topographic Survey, Floor Plan and Elevation Plans. The Region of Niagara, whom is responsible for reviewing private sewage servicing on all rural properties has advised that an upgraded private septic system in accordance with the *Ontario Building Code* is required. It should be noted that the proposed septic tank is located underneath the proposed covered porch which cannot be approved by Regional staff, see comments below. However, the proposed covered porch is not the subject of this minor variance application. 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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Section 7.4 (e) “Minimum Exterior Side Yard” seeking 3.85 m, whereas 8 m is required, to construct a ± 56.4 m², 2-storey residential addition to the north.

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 exterior side yard setbacks is minor overall because it will help to improve the historic streetscape, which is characterized by many homes built close to the road. The proposed addition is a logical extension of the existing dwelling, in that it will help to preserve the balance of the subject lands, private sewage system servicing and landscaped amenity area purposes. The proposed addition is also at a larger setback than the existing <i>legal non-complying</i> front yard setback which has not posed any adverse impacts to date.
2. The variance is desirable for the development or use of the land.	The reduction of the minimum exterior side yard setback is desirable because it will allow for improved living arrangements and usage of the existing <i>legal non-complying</i> dwelling. The proposed addition also has the potential to improve the Cream Street public streetscape if subject to appropriate urban design treatments, which are described in the conditions of approval.
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 it does not compromise the rural character of the neighbourhood, nor does it prevent the ability for the site from being adequately serviced with a private septic system. The rural community character will be maintained, the use is permitted, and

	no adverse impacts are anticipated regarding water quality, hydrogeology and stormwater runoff.
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 the requested setback reduction recognizes the existing <i>legal non-complying</i> dwelling and allows for the logical, and appropriate extension of the dwelling while still maintaining adequate setbacks from the travelled roadway, and usable land for the private sewage system.

Agency & Public Comments

On July 15, 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 (July 21, 2020).
 - No objections.
- Niagara Region (July 27, 2020)
 - See attached and conditions.
 - No objections; provided a new septic system permit be issued and installed in accordance with the *Ontario Building Code*.
- Building Department (July 31, 2020)
 - Building permit(s) are required.
- Public Works Department (July 28, 2020)
 - Should a new driveway be needed, or the existing driveway widened, then a Driveway Entrance & Culvert Permit will be required via the Public Works department, at the owner's expense.

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

Planning Staff Comments

The subject lands are located on the southeast corner of Canboro Road and Cream Street. The property is surrounded by rural residential uses on all sides. A Pre-Consultation meeting was held with the applicants, Town staff and NPCA staff on February 20th 2020 to discuss the subject application and requirements for a complete submission.

The proposed minor variance application seeks zoning relief to recognize the existing *legal non-complying* exterior side yard setback of the original dwelling and to allow for a reduced exterior side yard setback to facilitate a northerly 2-storey addition.

Niagara Region staff have indicated the proposed addition warrants a new private sewage system under the *Ontario Building Code* requirements. However, the proposed covered porch is illustrated above the septic tank. The septic tank must be at least 1.5 m from any structure. Therefore, the Region cannot support the permit for

the covered porch section of the addition.

However, Regional staff contacted Town Planning staff about the concern and recognized that the subject of the minor variance (reducing exterior side yard setbacks), are not related to the proposed covered deck. Therefore, enforcing a condition with respect to the deck would be outside of the scope of zoning relief and this issue can be rectified at the building permit stage, regardless of any condition imposed by the Committee of Adjustment. Based on this, no conditions are being requested by Town staff to address the issue between the septic tank and proposed covered deck. The applicant should be made aware of this issue and understand that it will need to be dealt with in order to obtain a building permit for the rear deck.

Town Planning staff are of the opinion the proposed addition to the north is a logical, and rather efficient use of the existing dwelling in order to gain additional living space and improve use of the property.

Planning staff are of the opinion that the proposal applies current planning and development principles dealing with appropriate rural residential development and making efficient use of the existing undersized rural residential parcel. The proposed minor variances should not negatively impact the surrounding land uses with regards to land use incompatibility, 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 A21/2020P **be approved** subject to the following conditions:

THAT the applicant

- At the time of building permit, provide a west (Cream Street) *Elevation Plan* that positively contributes to the public street through the use of a more practical front porch, and ground floor windows symmetrically proportionate to the building's mass, to the satisfaction of the Director of Community Planning & Development.
- Cease excavation activities immediately upon discovery of deeply buried archaeological resources. The Archaeology Programs Unit of the Ministry of Heritage, Sport, Tourism and Culture Industries (416-212-8886) shall be notified and a licensed archaeologist is required to carry out an archaeological assessment in accordance with the *Ontario Heritage Act* and the Standards and Guidelines for Consultant Archaeologists. In the event that human remains are encountered during construction, all activities must cease immediately and the local Police as well as the Cemeteries Regulation Unit of the Ministry of Government & Consumer Services (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, MTCS should also be notified to ensure that the site is not subject to unlicensed alterations which would be in contravention of the *Ontario Heritage Act*.

Prepared by,



Curtis Thompson, B.URPI
Planner

Approved by,



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