

September 1, 2020

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

**Re: Minor Variance Application A24-2020P**  
**Northeast corner of Webber Road & Poth Street, Pelham**  
Concession 13, Part of Lot 8  
**Roll No. 2732 030 017 10901**

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The subject parcel, shown as Part 1 on the attached sketch, has 150.43 m of frontage on the east side of Poth Street, lying north of Webber Road, legally described above, in the Town of Pelham.

The subject land is zoned 'Agricultural – 25' (A-25) in accordance with Pelham Zoning By-law 1136 (1987), as amended. The minor variance application requests relief from:

- i. **Section 7.2 (a) "Minimum Lot Frontage"** to permit a minimum lot frontage of 150.43 m, whereas 180 m is required.
- ii. **Section 7.2 (b) "Minimum Lot Area"** to permit a minimum lot area of 3.98 ha, whereas 10 ha is required.

The variance is requested to legalize the proposed agricultural lot under consent file B6/2020P.

Note: File B6-2020P is being considered concurrently.

### **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 Provincial Policy Statement (PPS) designates the subject land within the 'Prime Agricultural Area' and 'Rural 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 1.1.4.1 states that healthy, viable *rural areas* should be supported by, among other things, promoting

regeneration, promoting diversification of the economic base in *prime agricultural areas*, in accordance with policy 2.3 and conserving biodiversity.

The proposed reduction in minimum lot frontage and lot area will recognize that portion of the subject lands which is already designated and zoned for agricultural purposes, only the variance originates from a desire to isolate the agricultural lands from the balance of the lands to the south (via severance) which contain an industrial designation and corresponding zone.

#### Growth Plan for the Greater Golden Horseshoe (2019)

This Plan informs decision-making regarding growth management and environmental protection in the Greater Golden Horseshoe (GGH). All decisions made after May 16, 2019 that affect a planning matter will conform with this Growth Plan, subject to any legislative or regulatory provisions providing otherwise. The policies of this Plan take precedence over the PPS to the extent of any conflict.

The subject parcel is located within a 'Prime Agricultural Area' according to the Growth Plan.

Policy 4.2.2.3 a) states that (among other things), within the *Natural Heritage System* new development or site alteration will demonstrate that there are no negative impacts on key natural heritage features, key hydrologic features or their functions.

*Development* is defined as the creation of a new lot, a change in land use, or the construction of buildings requiring approval under the *Planning Act*.

The proposed variances do not directly induce any building construction or intensification because the land designations and corresponding zoning permissions have existing for a considerable amount of time. The requested variances are sought to legalize the agricultural use permissions under section 7.2 of the Zoning By-law as a result of a concurrent severance application to separate the industrial lands from the agricultural lands.

#### Regional Official Plan (Consolidated August 2014)

The Regional Official Plan designates the subject land as 'Good General Agricultural Area' to the north and 'Rural Area' to the south. The subject land also shares the following environmental designations on at least part of the subject property: Environmental Protection Area (EPA) and Environmental Conservation Area (ECA).

Policy 5.C (Rural Areas) states that the predominant use of these lands will continue to be agriculture, but some non-farm related development will be permitted. Local official plan policies for non-agricultural development shall provide direction on, among other things, the future pattern and character of development, the extent of protection to natural resources and compatibility with adjoining agricultural areas.

Regional staff are satisfied the proposed development applications meet the Regional Official Plan policy requirements.

#### 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 land as 'Good General Agricultural' to the north and 'Industrial' to the south. The minor variance application is only associated with the agricultural lands to the north which is connected with the proposed lot creation under severance file B6-2020P.

Policy B2.1 (Good General Agricultural) – states the purpose of this designation is to protect and maintain land suitable for agricultural production and permit uses which support and are compatible with agriculture.

Following the approval of a concurrent severance application to divide the subject property along pre-existing split Official Plan land use designations, the proposed zoning relief would enable the full range of agricultural zoning permissions to continue (on Part 1), subject to any other applicable by-law regulations. This application will allow someone whom is only interested in developing the industrial lands to do so without the burden associated with owning and maintaining the balance of the agricultural (or residential) lands to the north, and vice-versa.

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

The subject land is currently zoned 'Agricultural – 25' (A-25) to the north and 'Light Industrial – 25' (M1-25) to the south according to the Zoning By-law.

Part 2 will continue to comply with the M1 zone requirements after parcel reconfiguration however Part 1 will not comply with section 7.2 ('A' zone) requirements for minimum lot frontage and minimum lot area. Therefore, the applicant has sought the following zoning relief:

- i. **Section 7.2 (a) "Minimum Lot Frontage"** to permit a minimum lot frontage of 150.43 m, whereas 180 m is required.
- ii. **Section 7.2 (b) "Minimum Lot Area"** to permit a minimum lot area of 3.98 ha, whereas 10 ha is required.

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 proposed reduction in minimum lot frontage and minimum lot area is minor overall because the existing agricultural zoned portion of the subject lands (Part 1) legally exists on a lot of record despite sharing its border with industrial designated / zoned lands. The proposed lot size is capable of supporting a variety of permitted uses without causing adverse impacts to the neighbourhood.
2. The variance is desirable for the development or use of the land.	Both proposed variances are desirable for the subject lands because they will allow for the full range of permitted agricultural uses to continue to be available in the future despite being on a smaller parcel of land.

3. The variance maintains the general intent and purpose of the Official Plan.	Both proposed variances maintain the general intent of the Official Plan because they will continue to protect and enhance land suitable for agricultural production, notwithstanding permitted non-agricultural uses (one single detached dwelling), which protecting sensitive core natural heritage features.
4. The variance maintains the general intent and purpose of the Zoning By-law.	Both proposed variances maintain the general intent of the Zoning By-law because the 3.98 hectare parcel size is still capable of a variety of agricultural uses, perhaps together with the permitted single detached dwelling. The purpose and intent of the Zoning By-law is being maintained because the proposed zoning relief doesn't otherwise alter what was already permitted land uses under the original parcel size.

### Agency & Public Comments

On August 4, 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 (August 12, 2020)
  - Satisfied the proposed lot line is outside of the 30 m PSW buffer.
  - Any works or site alteration within 15 m of the watercourse, and within 15 m of the stable top of slope will require NPCA approval.
  - Satisfied that there will be no negative impacts to the PSW, valleyland slope or watercourse.
  - No objections to the minor variance and consent applications.
- Niagara Region Planning & Development Services (August 21, 2020)
  - Cannot confirm if the proposed development complies with Minimum Distance Separation (MDS) requirements.
  - Archaeological assessment will be required at Site Plan Control stage for industrial zoned lands (Part 2).
  - Not opposed.
- Building Department (August 19, 2020)
  - No comments.
- Public Works Department (August 19, 2020)
  - See conditions.

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

### Planning Staff Comments

The subject application deals with zoning relief to reduce the minimum lot frontage and minimum lot area for agricultural uses as a result of a proposed consent to sever (file B6-2020P) application to divide the property into two separate ownerships along its split Official Plan designation and zone category. For general information, the Committee should note that usually, but not always, are official plan land use designations

and zone categories derived from existing boundaries and land features such as parcel fabric lines. In this case, the industrial boundary appears to have been aligned more closely with property lines west of Poth Street, but does divide numerous properties including that of the subject land.

A pre-consult was held with the applicant(s) of the property and staff from the Town and Niagara Region Planning & Development Services on June 20, 2019 to discuss the subject applications.

The subject lands are located on the northeast corner of Webber Road and Poth Street and are surrounded by agricultural uses, rural residential dwellings and some dry industrial land to the southwest.

Planning staff visited the site and reviewed aerial photography to better understand the local context. Planning staff have also reviewed the *Planning Justification Brief* prepared by A. Arbour Consulting, submitted with the application.

Planning staff is of the opinion that the proposal applies current planning and development goals regarding the enablement of appropriate economic development on lands suitable to do so (prime agricultural area) by disposing of land that contains very different policy and land use permissions. Furthermore, the proposed minor variance avoids harm to any key natural heritage features by ensuring those ecologically sensitive features remain wholly intact by avoiding lot fragmentation in connection with the concurrent severance application. The proposed minor variance also does not induce any more non-agricultural development such as residential dwellings, than what previously exists within the agriculturally designated and zoned lands (Part 1). However, the proposed zoning relief does allow the full range of agricultural uses to be permitted on a somewhat smaller parcel size, subject to all other applicable regulations being complied with including MDS regulations.

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 A24-2020P **be approved**.

Prepared by,



Curtis Thompson, B.URPI  
Planner

Approved by,



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