

**VIA E-MAIL ONLY**

August 31, 2020

**Sarah Leach, BA.**

**Administrative Assistant to the Clerk**

Administration Services

20 Pelham Town Square, P. O. Box 400

Fonthill, Ontario L0S 1E0

**Submission for Minor Variance Application**

Location: 257 Chantler Road  
In the Town of Pelham

Our File: MV-20-0032

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Regional Planning and Development Services staff have completed a review of the provided materials which were provided as part of an application for a minor variance at 257 Chantler Road in the Town of Pelham.

The documents were received by Regional staff on August 04, 2020. A revised Notice of Hearing was circulated on August 12, 2020, which indicates that the submitted minor variance application is made for relief, for the proposed agricultural building only (no seasonal mobile farm help house). The following revised comments are provided from a Regional and Provincial perspective based on the information submitted in order to assist the Town in reviewing the application.

**Archaeological Potential**

The Provincial Policy Statement (PPS) and Regional Official Plan (ROP) provide direction for the conservation of significant cultural heritage and archaeological resources. Specifically, Section 2.6.2 of the PPS and Policy 10.C.2.1.13 of the ROP state that development (including the construction of buildings and structures requiring approval under the *Planning Act*) and site alteration (activities, such as grading, excavation and the placement of fill that would change the landform and natural vegetative characteristics of the site) are not permitted on lands containing archaeological resources or areas of archaeological potential, unless significant archaeological resources have been conserved.

Based on Provincial screening criteria, the property exhibits high potential for the discovery of archaeological resources due to proximity (within 300m) to a watercourse to the north/west. At the pre-consultation meeting, Regional staff identified the requirement for an archaeological assessment for any areas proposed to be disturbed as a result of the proposed agricultural building. Regional staff understands that a site plan application may

be required for the proposed structure, and so defer to Town planning staff in determining any requirements for archaeological assessment for this application based on the Town's approved Heritage Master Plan. If the Town confirms the requirement for an archaeological assessment to be addressed through the minor variance process, condition 1 in the appendix should be added to the variance to ensure it maintains the intent and purpose of Official Plan policies pertaining to the conservation of archaeological resources.

## **Core Natural Heritage System**

The subject property contains and is adjacent to portions of the Region's Core Natural Heritage System (CNHS), including the Provincially Significant Upper Coyle Creek Wetland (PSW) Complex, Significant Woodland, and Important (Type 2) Fish Habitat. The property is also mapped as part of the Growth Plan (2019) Provincial Natural Heritage System (NHS). As such, the CNHS features on and adjacent the property are considered Key Hydrologic and Key Natural Heritage Features (KHF/KNHF) and the natural heritage policies identified in the Provincial Growth Plan apply accordingly.

Growth Plan policies require the completion of a Natural Heritage Evaluation when development and/or site alteration is proposed within 120 metres (m) of a KHF or KNHF. Regional policies similarly require the completion of an Environmental Impact Study (EIS) when development and/or site alteration is proposed within 120 m of PSW, 50 m of Significant Woodland, and 15 m of Important Fish Habitat. Further, Growth Plan policies also require that a 30 m Vegetation Protection Zone (VPZ), as measured from the outside boundary of the PSW/Significant Woodland/Fish Habitat, be established as natural, self-sustaining vegetation. Development and/or site alteration is not permitted within these KHF/KNHFs or their VPZ.

However, for expansions to existing buildings and structures and/or accessory structures, Growth Plan policy 4.2.3.1(e) provides an exemption to the natural heritage policies described above, subject to demonstration that:

- i. There is no other alternative, expansion or alteration in the feature is minimized, and in the VPZ, is directed away from the feature to the maximum extent possible; and
- ii. The impact of the expansion or alteration on the feature and its functions is minimized and mitigated to the maximum extent possible.

Regional policies permit similar exemptions. Therefore, given that the existing structure is within the mapped Significant Woodland feature in a disturbed area and that the proposed structure is within close proximity to the existing structure, Regional Environmental Planning staff are supportive of waiving the requirement for a Natural Heritage Evaluation/EIS, including the establishment of a 30 m VPZ, and no further study is requested.

Approval of the minor variance should be conditional on the following mitigation measures being implemented through the building permit process, to prevent negatively impacting the adjacent features.

1. That erosion and sediment control (ESC) fencing be installed around the development footprint and be maintained in good condition for the duration of construction until all disturbed surfaces have been stabilized. Muddy water shall not

- be allowed to leave the site and ESC measures must be monitored regularly to ensure they are functioning properly and promptly fixed if issues are identified.
2. Any required vegetation removal should be conducted in a manner to avoid impacts to nesting birds that may be utilizing habitats on the property. The breeding bird period for this area is generally March 15 to August 31. A survey for active bird nests should be conducted prior to any vegetation removal or site alteration planned to occur during this window. Any site alteration works should be phased to avoid impacts to active nests until the nestlings have fully fledged.
  3. Any stockpiled materials be stored and stabilized away from the trees to be retained.
  4. That tree and vegetation removal be minimized where possible and where grading permits.
  5. That existing overland flow patterns are maintained to ensure that surface water flows to the adjacent wetland are maintained.

Please note that these comments only relate to the proposed agricultural building and do not consider the proposed in-ground pool identified on the Site Plan as it has not been identified as requiring a minor variance.

### **Private Sewage System**

The revised minor variance application has removed the proposed mobile farm help-house on the property. The application is proposing the construction of a new agricultural building (barn). Based on an inspection by Private Septic System (PSS) staff in March 2020, the property has restricted lands for development because of environmental features (woodlot/wetland). A septic system design is required to confirm the property contains enough usable land for a replacement septic system. Therefore, PSS staff cannot support the application until a septic design is submitted to our department for review.

### **Conclusion**

Based on the analysis and comments above, Regional staff cannot support the proposed minor variance until a septic system design confirming the property contains enough useable land for a replacement septic system is submitted for review. Should the committee choose to support the variance or the applicant submit the required septic system design, additional conditions are included in the Appendix.

If you have any questions or wish to discuss these comments please contact the undersigned at extension 3345, or Susan Dunsmore, Manager Development Engineering, at extension 3661.

Best Regards,



Matteo Ramundo  
Development Approvals Technician  
Niagara Region

Attention: Appendix- Regional Conditions

cc. Britney Fricke, Senior Development Planner, Niagara Region  
Susan Dunsmore, Manager Development Engineer, Niagara Region  
Tanya Killins, Private Sewage System Inspector, Niagara Region  
Adam Boudens, Senior Environmental Planner/ Ecologist, Niagara Region

**APPENDIX**  
**Regional Conditions for Minor Variance**  
**257 Chantler Road, Town of Pelham**

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- 1) That the owner submits a Stage 1 and 2 Archaeological Assessment, prepared by a licensed archaeologist, to the Ministry of Heritage, Sport, Tourism and Culture Industries, for review and approval with a copy provided to the Niagara Region. The report must cover the areas of the property that will be disturbed as a result of the proposed works, and must be accepted by the Ministry, to the satisfaction of Niagara Region, prior to clearance of this condition. It should be noted that subsequent Stage 3 or 4 study may be recommended to mitigate any adverse impacts to significant archaeological resources found on the site through preservation or resource removal and documentation. If the licensed archaeologist or the Ministry recommends/requires further Stage 3 or 4 Archaeological Assessments, these report(s) must also be submitted to and accepted by the Ministry, to the satisfaction of Niagara Region. NOTE: No demolition, grading or other soil disturbances shall take place on the subject property prior to the issuance of a letter from the Ministry confirming that all archaeological resource concerns have been mitigated and meet licensing and resource conservation requirements.
- 2) That erosion and sediment control (ESC) fencing be installed around the development footprint and be maintained in good condition for the duration of construction until all disturbed surfaces have been stabilized. Muddy water shall not be allowed to leave the site and ESC measures must be monitored regularly to ensure they are functioning properly and promptly fixed if issues are identified.
- 3) Any required vegetation removal should be conducted in a manner to avoid impacts to nesting birds that may be utilizing habitats on the property. The breeding bird period for this area is generally March 15 to August 31. A survey for active bird nests should be conducted prior to any vegetation removal or site alteration planned to occur during this window. Any site alteration works should be phased to avoid impacts to active nests until the nestlings have fully fledged.
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- 5) That tree and vegetation removal be minimized where possible and where grading permits.
- 6) That existing overland flow patterns are maintained to ensure that surface water flows to the adjacent wetland are maintained.