

February 2, 2021

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

Re: Minor Variance Application A8/2021P
596 Chantler Road, Pelham
Part of Lot 11, Concession 13
Roll No. 2732 030 017 12600

The subject land is located on the southeast corner of Chantler Road and Cream Street, legally described above, and known locally as 596 Chantler 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 minor variance application requests relief from:

- i. **Section 7.7 (a) "Maximum (accessory) Lot Coverage"** to permit a maximum (accessory) lot coverage of 2.2 %, whereas 1 % is allowed.
- ii. **Section 7.7 (d) "Maximum (accessory) Building Height"** to permit a maximum building height of 4 m, whereas 3.7 m is allowed.

The proposal seeks to construct an accessory building to the residential dwelling.

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'. 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 (Rural Areas) – states that healthy, integrated and viable *rural areas* should be supported by (among other things):

- a) Building upon rural character;

- b) Promoting regeneration; and
- h) Conserving biodiversity and considering the ecological benefits provided by nature.

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*.

Town and Regional Planning staff have requested conditions of approval to conserve *archaeological resources* and the proposed accessory building is designed as a pole barn which is in keeping with the character of the rural neighbourhood.

Growth Plan (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.

Like the PPS, the Growth Plan designates the subject land as being within a 'Prime Agricultural Area' due to the Ministry of Agriculture, Food and Rural Affairs' use of Canada Land Inventory soil classifications. Policy 4.2.6 states that *prime agricultural areas* will be protected for long-term use agricultural use.

Policy 4.2.6 (Agricultural System) – states that where *agricultural uses* and non-agricultural uses interface outside of *settlement areas*, land use compatibility will be achieved by avoiding or where avoidance is not possible, minimizing and mitigating adverse impacts on the *agricultural system*. The retention of existing lots of record for *agricultural uses* is encouraged, and use of these lots for non-agricultural uses is discouraged.

The subject lands has been a rural residential lot of record for many decades, predating the Provincial Growth Plan. The proposed accessory building will not adversely impact the rural neighbourhood character or the agricultural use of the surrounding lands.

Regional Official Plan (Consolidated August 2014)

The Regional Official Plan designates the subject land as 'Good General Agricultural Area'.

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.

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' as per Schedule 'A'.

Policy B2.1.2 states (among other uses) one single detached dwelling is permitted on a vacant lot of record.

Policy B2.1.1 states the purpose of the *Good General Agricultural* designation is to protect and maintain land suitable for agricultural production and permit uses which are compatible with agriculture. The subject lands, are surrounded by agricultural uses and a *significant woodland*. Accessory buildings (i.e. garages) that serve legal residential dwellings are permitted uses, *as-of-right* in the Official Plan and Zoning By-law, subject to any applicable performance standards and applicable policy.

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 a tributary and historic transportation routes. Town and Regional Planning staff have requested a condition of approval to ensure the long-term conservation of potentially deep buried cultural resources.

Under normal circumstances, it is generally considered best practice to co-locate agricultural and non-agricultural buildings in a dense cluster to minimize their impact on fertile farmland. However, the subject lands are quite small and have not been farmed for many decades. Furthermore, the private septic is located south of the existing dwelling, along with a cluster of mature trees which forces the accessory building further south. There exists a second driveway off Cream Street serving the agricultural property at 588 Chantler Road, that cuts through the rear yard of the subject lands. The applicant has indicated that southern driveway would be extended northward to the new building which is positioned as shown on the Site Plan for hydro servicing reasons and to maintain views between the house and the pond further south.

Town Planning staff are of the opinion the proposed zoning relief conforms to the Official Plan.

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

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

- i. **Section 7.7 (a) "Maximum (accessory) Lot Coverage"** to permit a maximum (accessory) lot coverage of 2.2 %, whereas 1 % is allowed.
- ii. **Section 7.7 (d) "Maximum (accessory) Building Height"** to permit a maximum building height of 4 m, whereas 3.7 m is allowed.

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 2.2 % is minor overall as adequate land area remains available to handle

	<p>stormwater runoff, maintain privacy, the existing septic system and preserve a rear yard amenity area.</p> <p>Increasing the accessory building height to 4 m is minor given the rural context. No negative impacts are anticipated by the adjacent neighbors as adequate distance separates the nearest residential neighbour from the building site.</p>
2. The variance is desirable for the development or use of the land.	<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 generally too small for the average viable 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. No adverse impacts are anticipated on the surrounding lands.</p>
3. The variance maintains the general intent and purpose of the Official Plan.	<p>The proposed use of a building accessory to a single detached house is permitted in the 'Good General 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 and lot coverage will not compromise the objectives of the Official Plan, particularly with respect to land use compatibility, privacy, storm water runoff and private sewage system servicing capabilities.</p> <p>The variances are appropriate given the site's rural context and meet the general intent of the Town Official Plan policies, subject to the recommended conditions of approval.</p>
4. The variance maintains the general intent and purpose of the Zoning By-law.	<p>The size of the proposed accessory building's height to 4 m, and increased lot coverage to 2.2 % 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 8, 2021, 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 Region Planning & Development Services (January 20, 2021)

- No objections, provided the foundation is constructed using helical post piles as per the submitted Foundation Plan, and no plumbing or living space is included within the proposed accessory building.
- Building Department (January 20, 2021)
 - Building permit(s) are required.
- Public Works Department (January 20, 2021)
 - No comments.

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

Planning Staff Comments

The subject lands are located on the southeast corner of Chantler Road and Cream Street. The property is currently surrounded by agricultural uses on all sides.

The proposed zoning 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.

Town Planning staff will be recommending a condition for either the completion of an archaeological assessment to be submitted to the Ministry of Heritage, Sport, Tourism & Culture for a standard Clearance Letter prior to issuance of a building permit. Alternatively, a requirement that the building be constructed using either a slab on-grade, or helical post style foundation to ensure no deep excavation through typical strip footings or foundation walls is warranted.

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 A8/2021P **be approved** subject to the following conditions:

THAT the applicant

- Apply for, and obtain a building permit for the proposed garage specifying the use of either a floating slab on-grade or helical post piles for the foundation. Not strip footings or foundation walls. Alternatively, the applicant may conduct a Stage 1-2 Archaeological Assessment prepared by a licensed archaeologist and receive clearance from the Ministry of Heritage, Sport, Tourism & Culture prior to the issuance of a building permit. The Archaeological Assessment must cover the areas of the site proposed for disturbance, and be accepted by the Ministry prior to clearance of this condition. The licensed archaeologist may recommend further archaeological analysis or preservation steps be taken. No demolition, grading or other soil disturbances shall take place on the subject land prior to the issuance of a Ministry letter confirming that all archaeological resource concerns have been mitigated and meet licensing and resource conservation requirements.
- Ensure no plumbing fixtures, living space or bedrooms are provided in the building permit for the proposed garage.

Prepared by,



Curtis Thompson, B.URPI
Planner

Approved by,



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