

## Committee of Adjustment AGENDA

Special CofA 01/2021

March 16, 2021

4:00 pm

Town of Pelham Municipal Office - Council Chambers

20 Pelham Town Square, Fonthill

During the ongoing global pandemic, Novel Coronavirus COVID-19, the Town of Pelham Committee of Adjustment will convene meetings in compliance with Provincial directives. Attendance by all participants will be electronic. Public access to meetings will be provided via Livestream [www.youtube.com/townofpelham/live](http://www.youtube.com/townofpelham/live) and subsequent publication to the Town's website at [www.pelham.ca](http://www.pelham.ca).

Pages

1. **Attendance**
2. **Call to Order, Declaration of Quorum and Introduction of Committee and Staff**
3. **Disclosure of Pecuniary Interest and General Nature Thereof**
4. **Requests for Withdrawal or Adjournment**
5. **Applications for Minor Variance**

**5.1. A13/2021P - 162 Port Robinson Road (Block 1, Plan 59M-481)**

1

1. Town of Pelham Planning Department
2. Town of Pelham Public Works
3. Niagara Region
4. NPCA

<b>5.2.</b>	<b>A14/2021P - 9 John Street</b>	<b>19</b>
	1. Town of Pelham Planning Department	
	2. Town of Pelham Public Works	
<b>5.3.</b>	<b>A15/2021P - 702 Sumbler Road</b>	<b>26</b>
	1. Town of Pelham Planning Department	
	2. Town of Pelham Public Works	
	3. Niagara Region	
	4. NPCA	
<b>5.4.</b>	<b>A16/2021P - Block 38, Plan 59M-476</b>	<b>44</b>
	1. Town of Pelham Planning Department	
	2. Town of Pelham Public Works	
	3. NPCA	
	4. Upper Canada Consultant Presentation	
<b>6.</b>	<b>Applications for Consent</b>	
<b>6.1.</b>	<b>B15/2021P - 1304 Rice Road</b>	<b>68</b>
	1. Town of Pelham Planning Department	
	2. Town of Pelham Public Works	
	3. NPCA	
	4. Upper Canada Consultant Presentation	
<b>7.</b>	<b>Minutes for Approval</b>	
<b>8.</b>	<b>Adjournment</b>	

March 16, 2021

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

**Re: Minor Variance Application A13/2021P**  
**Port Robinson Road, Pelham**  
Block 1, Plan 59M-481  
**Roll No. 2732 030 020 07606**

The subject land is located on the south side of Port Robinson Road, lying west of Rice Road and legally described above, in the Town of Pelham.

The subject land is zoned 'Residential Multiple 1 – 291' (RM1-291) in accordance with Pelham Zoning By-law 1136 (1987), as amended. The minor variance application requests relief from **By-law No. 4138 (2019)**:

- i. ***RM1-291 General Provisions Section 6.35 (c) "Yard Encroachments – Unenclosed Porches, Balconies, Steps & Patios"*** to permit encroachments of not less than 1.5 m from a front lot line or exterior side lot line, whereas 2 m is required, for units 31-36 and 54-60.
- ii. ***RM1-291 General Provisions Section 6.35 (c) "Yard Encroachments – Unenclosed Porches, Balconies, Steps & Patios"*** to permit encroachments of not less than 2.2 m from a rear lot line, whereas 4.5 m is required, for units 1-19.
- iii. ***RM1-291 Section 16.4 (h) "Maximum Exterior Side Yard"*** to permit a maximum exterior side yard of 7.5 m for units 44-45 and 7 m for unit 69, whereas 5 m is required.

The proposed minor variance will help facilitate an 87-unit block townhouse development (known as *Lavender Fields*) which has received Site Plan Approval from Town Council (file SP-06-2020).

### **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 ‘Settlement Area’ according to the PPS. Policy 1.1.3.1 states that settlement areas shall be the focus of growth and development.

Policy 1.1.3.4 states appropriate development standards should be promoted which facilitate *intensification, redevelopment* and compact form, while avoiding or mitigating risks to public health and safety.

The proposed minor variance application has been submitted to seek relief from certain site-specific zoning provisions in order to facilitate the applicant’s preferred site design layout.

Policy 2.6.2 states that development and site alteration shall not be permitted on lands containing archaeological resources or archaeological potential unless the resources have been conserved. The Town’s Heritage Master Plan identifies this area as having high archaeological resource potential, therefore an Stage 1 – 3 Archaeological Assessment and Ministry Clearance was previously completed and obtained as part of the Saffron Meadows Phase 3 subdivision, which created this block of developable land.

The proposed development seeks to modify the front and rear yard encroachment provisions for unenclosed porches and steps while also increasing the maximum exterior side yard setback for three (3) units. The latter is partially a product of the misaligned laneway resulting from the stormwater channel but also the developer’s choice to maintain the same rectangular dwelling footprint where a custom designed end-unit could have offered compliance. Regardless, the zoning relief will help facilitate the approved Site Plan Agreement and offer an efficient use of the land with a critical volume of dwelling units. Planning staff are of the opinion the requested zoning relief is consistent with the PPS and promotes appropriate development standards that help facilitate compact form while meeting *Greenfield* designation and urban design policy objectives.

#### 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 a *designated Greenfield area* and is located within a 'Settlement Area' according to the Growth Plan. *Designated Greenfield areas* are required to accommodate forecasted growth to this Plan's horizon. Guiding principles regarding how land is developed:

- Support the achievement of *complete communities* to meet people's needs through an entire lifetime.
- Prioritize *intensification* and higher densities to make efficient use of land and *infrastructure*.
- Support a range and mix of housing options, including second units and *affordable* housing, to serve all sizes, incomes, and ages of households.
- Provide for different approaches to manage growth that recognize the diversity of communities in the GGH.
- Integrate climate change considerations into planning and managing growth.

The requested zoning provisions help facilitate an efficient medium density townhouse development by allowing larger, more desirable front and rear yard amenity areas for public realm facing dwelling units. The encroachments would better address the public multi-use trail along the watercourse and the Port Robinson Road streetscape by facilitating more passive surveillance, neighbourly interaction and a stronger sense of place through built form and urban design. No sensitive *key natural heritage features* or deeply buried archaeological resources will be impacted by the proposed zoning relief.

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

The Regional Official Plan designates the subject land as 'Designated Greenfield Area' within the Urban Area Boundary.

Policy 4.G.6.2 indicates 'Urban Areas' will be the focus for accommodating the Region's growth and development.

Policy 4.C.5 states *Designated Greenfield Areas* will be planned as compact, complete communities by:

- a) Where permitted by scale, accommodating a range of land uses.
- b) Where limited by scale or configuration, making a significant contribution to the growth of the respective *Urban Area*.
- c) Providing opportunities for integrated, mixed land uses.

- e) Ensuring that Greenfield development is sequential, orderly and contiguous with existing built-up areas.

Policy 4.J.4 states the Region encourages private realm site design that addresses public safety, active transportation, landscaping, and human scale in buildings facing public space.

Policy 11.A.2 states the Region encourages the development of attractive, well designed residential construction that:

- c) Emphasizes the entrance.
- d) Is accessible to all persons.
- g) Provides an attractive, active transportation friendly streetscape.
- h) Contributes to a sense of safety within the public realm.
- j) Creates or enhances an aesthetically pleasing and functional neighbourhood.

#### 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 'Secondary Plan Area' within the Fonthill Settlement Area. More specifically, the East Fonthill Secondary Plan designates this parcel as EF – Medium Density Residential. Policy B1.7.7.4 outlines the permitted uses and intentions of this designation. Subsection h) states that development on the basis of public lanes is encouraged and may be required where dwellings front onto a Collector Main Street. The front and rear encroachment zoning provision requests are a response to the desire for maximizing dwelling unit volume, design efficiency, providing functional and desirably sized front and rear yard covered amenity areas. The request to increase the maximum exterior side yard setback is a partially a product of the skewed road alignment but also a desire to minimize construction costs by negating custom designed townhouse end units.

Policy A2.1.2 Natural Environment – states the natural environment objectives of this Plan are to make planning decisions that consider the health and integrity of the broader landscape as well as the long term and cumulative impacts on the ecosystem.

The naturalized channel (stormwater course) flanking the southern lot line of the subject lands is designated 'Environmental Protection Two' (EP2). The NPCA and Niagara Region both indicated they had no objections to the zoning relief as their matters of interest were previously dealt with through the Site Plan Approval process.

Policy A2.3.2 Urban Character – stated objectives of this Plan include (among others):

- To enhance the *urban areas* as diverse, livable, safe, accessible and attractive communities.
- To ensure that new development areas are integrated into the fabric of the existing community in conformity with approved Secondary Plans.
- To encourage the development of neighbourhoods which are compact, pedestrian-friendly and provide a mix of housing types.
- To foster a sense of civic identity through a high standard of urban design in public and private development.

The proposed minor variances have some impact on the stated objectives of Policy A2.3.2 as they relate to streetscape and urban design matters. Particularly, the requested encroachments will actually enhance the public realm of both the multi-use trail along the southern flank, but also the Port Robinson Road streetscape by fostering a livelier and more engaging built form with covered porches architecturally designed at a human scale.

Policy A2.5.2 Infrastructure – stated objectives of this Plan include maintaining existing infrastructure in a manner that is cost effective and contributes to the quality of life of citizens.

Policy B1.7.3.1 (East Fonthill) Development Objectives – states that the following private (and public) development objectives will be implemented by the mechanisms in the Official Plan, the implementing Zoning and Site Plan Approvals. The East Fonthill development objectives (that relate to this development) are:

- c) To create a sense of identity and continuity within the community through design treatments that residents and visitors can recognize as characteristic of the Secondary Plan Area;
  - ✓ The East Fonthill neighbourhood is still in its early days but the policy objectives and Demonstration Plans envision a tasteful urban village with collector roads like Port Robinson Road being flanked by rear-loaded, medium density residential development. The policies and urban design guidelines also reinforce the desire to provide forward-facing, buildings that address open spaces including stormwater channels and multi-use pathways. The proposed zoning encroachments helps reinforce these objectives and the increased maximum exterior side yard setback is minor overall due to the skewed laneway and lot geometry, no negative impacts are anticipated.
- d) To create a complete community with a safe, healthy and functional environment that can accommodate between 6,500 and 7,500 new residents and jobs combined;
  - ✓ The proposed minor variances do not hamper the ability for East Fonthill to meet its projected growth targets.

- k) To develop a land use pattern and transportation system that supports motorized vehicular traffic, transit, cyclists and pedestrians and provides alternate transportation routes to most destinations;
- ✓ The subject lands utilize a private laneway for vehicle access. Rear-loaded developments are superior to front-loaded developments when it comes to public safety and the human scaled experience for those walking and riding bicycles as transportation means, as well as drivers and transit vehicles. The proposed zoning relief does not conflict with this policy.

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

The subject land is zoned 'Residential Multiple 1 – 291' (RM1-291) in accordance with Pelham Zoning By-law 1136 (1987), as amended. Under the site-specific Zoning By-law Amendment **No. 4138 (2019)** minor variance application requests relief:

- i. **RM1-291 General Provisions Section 6.35 (c) "Yard Encroachments – Unenclosed Porches, Balconies, Steps & Patios"** to permit encroachments of not less than 1.5 m from a front lot line or exterior side lot line, whereas 2 m is required, for units 31-36 and 54-60.
- ii. **RM1-291 General Provisions Section 6.35 (c) "Yard Encroachments – Unenclosed Porches, Balconies, Steps & Patios"** to permit encroachments of not less than 2.2 m from a rear lot line, whereas 4.5 m is required, for units 1-19.
- iii. **RM1-291 Section 16.4 (h) "Maximum Exterior Side Yard"** to permit a maximum exterior side yard of 7.5 m for units 44-45 and 7 m for unit 69, whereas 5 m 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.	<p>Town Planning staff concur with the <i>Planning Justification Brief's</i> analysis on this test, specifically that the East Fonthill policy objectives direct a strong focus towards enhancing the public realm through the design of lively buildings, shorter front yard setbacks and urban design treatments such as large, covered front porches with vehicle access directed to the rear via an internal laneway.</p> <p>Normally, there might be legitimate privacy concerns associated with ever encroaching raised, rear yard decks located closer to other private rear yards. However, the requested rear yard deck encroachment backs onto a public</p>

	<p>open space with a new multi-use pathway. The requested encroachment is actually preferred in this case as it will help activate the trail and dissuade negative perceptions of private dwellings, <i>'turning their back'</i> upon the public realm.</p> <p>The minor variance to increase the exterior side yard setback on three (3) units is minor overall as the dwellings still widely capture the attention of the flanking laneway positively through enhanced architectural design treatments provided through the Site Plan Approval process. Yet also, the vast majority of townhouses on the subject lands will satisfy this maximum zoning setback, and these three end units have unfortunately resulted from the skewed lotting geometry directly caused by the stormwater channel alignment to the south. The three (3) units in question still exercise partial compliance on the opposite corner of the exterior side yard wall, where it was still practical for the applicant.</p>
2. The variance is desirable for the development or use of the land.	<p>The requested front and rear unenclosed porch / deck encroachments are desirable for the development and surrounding area because they will further help to active the streetscape through larger, more functional amenity areas which help facilitate a more inviting public-private interface. There are no privacy concerns with the rear yard encroachments because there is no immediate private land that would possibly be impacted.</p>
3. The variance maintains the general intent and purpose of the Official Plan.	<p>A <i>Planning Justification Brief</i> was supplied and spoke to the <i>Four Tests</i> of the <i>Planning Act</i> as well as some policies generally. Town staff are of the opinion the requested zoning relief will not compromise the general intent of the Official Plan as the encroachment revisions represent sound urban design principles in an evolving compact, mixed-use neighbourhood as well as promoting overlook onto public open spaces. There are no sensitive natural heritage features, privacy concerns, or stormwater management issues. These matters were also addressed under the Site Plan Approval process.</p> <p>The intent of the maximum exterior side yard setback provision is multi-fold. However most simply, the policy</p>

	<p>objective is meant to help ensure that buildings are designed, oriented and aligned in a manner that facilitates a relatively consistent streetscape that promotes a strong <i>sense-of-place</i> with considerable attention given to urban design. These policy objectives intend to manifest as a well-designed public-private realm through priority treatment of a human scaled experience, and not that of automobiles.</p> <p>Planning staff are of the opinion the minor variances requested uphold the general policy intent of the Official Plan, specifically those of the East Fonthill Secondary Plan and the associated Urban Design Guidelines.</p>
4. The variance maintains the general intent and purpose of the Zoning By-law.	<p>The intent of the front yard encroachment maximum of 2 m is to allow for a strong relationship between the public-private interface, but still maintain a suitable buffer between the sidewalk, travelled roadway and private structures. The original site-specific encroachment maximum was also intended to help reinforce the street frame enclosure causing peripheral <i>edge friction</i> for travelling vehicles helping to calm traffic speeds, while still providing for a softened front yard built environment. The request to allow for a 1.5 m maximum encroachment maintains the By-law's intent because the reduction will actually be indistinguishable given the alignment of the paved portion of the Port Robinson Road carriageway in relation to the legal front lot line. In other words, the perceived front yard setback will be greater than the actual setback / encroachment.</p> <p>The intent of the rear yard encroachment maximum of 4.5 m was to allow for a more efficient and functional use of the rear yard amenity areas where lot sizes (more characteristic of a <i>Greenfield designated</i> area) are typically smaller. The 4.5 m provision was set to ensure a suitable buffer between adjacent private rear yards mostly for privacy reasons. However, the units requesting an encroachment extension back onto public open space, which the site-specific By-law did not adequately qualify. Town Planning staff actually prefer the larger encroachment requested for these lots backing onto the channel, as they will provide improved</p>

	<p>overlook onto the multi-use trail and help activate the publically accessible open space, and improve safety as was intended.</p> <p>The intent of the maximum exterior side yard setback was to require a stronger built form relationship to the public road / internal laneway system for streetscape activation, traffic calming and generally for urban design principles. The requested minor variance is mostly a result of the skewed laneway alignment caused by the stormwater channel flanking the southern lot line. Although the developer could have provided custom designed building footprints for these (3) end-units to comply, it would have raised costs for both the applicant and ultimately the future homeowner. Planning staff are of the opinion the intent of the By-law is clearly still being maintained as the streetscape relationship is strong overall and the far corner of each of these dwelling unit's walls are still compliant.</p> <p>Therefore, Planning staff are of the opinion the requested zoning relief maintains the intent and purpose of the site-specific Zoning By-law.</p>
--	---

### Agency & Public Comments

On February 3, 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 Peninsula Conservation Authority (March 3, 2021)
  - No objections.
- Niagara Region Planning & Development Services (February 8, 2021)
  - No objections. Regional and Provincial interest matters were addressed through Site Plan Approval.
- Public Works Department (March 2, 2021)
  - Public Works staff indicated concern with the proposed rear yard deck encroachment variance and its potential for impact on the stormwater drainage. It is noted, however, that the proposed development was subject to site plan



approval which has been granted and Public Works approved the engineering plans for this development as part of the site plan approval process. Therefore, the storm drainage was addressed to their satisfaction.

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

### **Planning Staff Comments**

The subject lands are located on the south side of Port Robinson Road, lying west of Rice Road. The property is surrounded by a mixture of vacant residential designated land, existing single detached dwellings and townhouse dwellings.

Planning staff have reviewed the *Justification Brief* (dated December 4, 2020) prepared by Upper Canada Consultants, submitted with the application.

The minor variance application is a response to the desire for increasing the volume of dwelling units, allowing for (more) efficient costs of design, development and ultimately future home ownership by maintaining consistent house designs. The zoning relief maintains adequate front and rear yard amenity areas, does not adversely cause any privacy concerns, compromise safety of the travelling public, and continues to aid in traffic calming objectives through the employment of peripheral edge friction caused by a relatively consistent alignment of building mass.

The requested enlargement of the maximum side yard setback for three (3) units is a response to the desire for building similar dwelling footprints within an irregularly configured street / laneway network resulting from the naturalized stormwater channel flanking the southern lot line.

Town Engineering staff with the Public Works department had raised concern with the requested variance to amend the permitted rear yard deck encroachments of units 1-19 due to the potential impacts on drainage. However, they supported the technical review of the Site Plan Control application, including the detailed design engineering (Grading, Servicing, Storm Drainage Area Plans etc.), and the development now has received Site Plan Approval. There no longer is a mechanism available to address these concerns given the approved and registered Site Plan Agreement and the construction plans illustrating the proposed deck encroachments. The applicant is advised of this concern and can expect strict adherence to the approved site servicing, grading and drainage requirements following completion.

Normally, there may be legitimate privacy concerns associated with ever encroaching raised, rear yard deck features located closer to other private rear yards. However, the requested rear yard deck encroachment backs onto a public open space with a multi-use pathway. The encroachment



is actually preferred in this case as it helps activate the trail and dissuades the perception of private dwellings, *'turning their back'* upon the public realm. It is unfortunate the site-specific Zoning By-law did not capture this specific design feature, but Planning staff are of the opinion the policies and the East Fonthill Secondary Plan and Urban Design Guidelines continues to be conformed with.

Planning staff are of the opinion that the proposal applies current planning and development principles dealing with appropriate *greenfield* development, making efficient use of the designated urban area lands, providing design flexibility where suitable to do so. The proposed minor variances should not negatively impact the surrounding neighbourhood 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 A13/2021P **be approved**.

Prepared by,



Curtis Thompson, B.URPI  
Planner

Approved by,



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

## **Memorandum**

### **Public Works Department - Engineering**

DATE: March 2, 2021  
TO: Curtis Thompson, Planner  
CC: Nancy J. Bozzato , Clerk; Holly Willford, Deputy Clerk; Jason Marr, Director of Public Works  
FROM: Xenia Pasiecznik, Engineering Technologist  
RE: File A13/2021P  
162 Port Robinson Road

Public Works has completed a review of the minor variance application A13/2021P for relief of Pelham Zoning By-Law 1136(1987), as amended by By-Law 4138(2019). The application is made to seek relief from the following:

- Section 6.35 (c) “Yard Encroachments – Unenclosed Porches, Balcony, Steps or Patio” – to permit an unenclosed porch, balcony, step or patio of 1.5m for Units 31-36 and 54-60 from the front lot line or exterior side lot line whereas the by-law requires 2m;
- Section 6.35 (c) “Yard Encroachments – Unenclosed Porches, Balcony, Steps or Patio” – to permit an unenclosed porch, balcony, step or patio of 2.2m for Units 1-19 from the rear lot line whereas the by-law requires 4.5m;
- Section 16.4 (h) “Maximum Exterior Side Yard” – to permit a maximum exterior side yard of 7.5m for Units 44 & 45 and 7m for Unit 69 whereas the by-law requires 5m.

Public Works has the following comments;

1. The requested setback of 2.2m for Units 1-19 is not supported as minimizing this setback will cause storm drainage to negatively impact adjacent properties.

## Sarah Leach

---

**From:** Shanks, Amy <Amy.Shanks@niagararegion.ca>  
**Sent:** Monday, February 8, 2021 10:29 AM  
**To:** Nancy Bozzato  
**Cc:** Development Planning Applications; Curtis Thompson; Sarah Leach; Holly Willford; Ramundo, Matteo  
**Subject:** RE: Committee of Adjustment Notice of Hearing - March 16, 2021

Hi Nancy,

Regional staff have reviewed this minor variance application, and offer no objection to the minor variance application as proposed, as all matters of Regional and Provincial interest associated with the proposal will be addressed through the site plan and draft plan of vacant land condominium applications on the subject lands.

We do not require a fee for this application, and will return the cheque to the Town.

Please let me know if you have any questions.

Thank you,  
Amy

**Amy Shanks**, M.PL.  
Development Planner  
Planning and Development Services  
Regional Municipality of Niagara  
1815 Sir Isaac Brock Way, PO Box 1042  
Thorold, Ontario L2V 4T7  
905-980-6000 ext. 3264  
[amy.shanks@niagararegion.ca](mailto:amy.shanks@niagararegion.ca)

---

**From:** Sarah Leach <SLeach@pelham.ca>  
**Sent:** Wednesday, February 3, 2021 9:09 AM  
**To:** Development Planning Applications <devtplanningapplications@niagararegion.ca>; Shanks, Amy <Amy.Shanks@niagararegion.ca>; rowcentre@bell.ca  
**Subject:** Committee of Adjustment Notice of Hearing - March 16, 2021

**CAUTION:** This email originated from outside of the Niagara Region email system. Use caution when clicking links or opening attachments unless you recognize the sender and know the content is safe.

Good afternoon,

Attached, please find the notice of hearing for file(s)

- A13/2021P – 162 Port Robinson Road

Thank you,



**Sarah Leach, BA.**

Administrative Assistant to the Clerk

Town of Pelham

T: 905-892-2607 x322 | E: sleach@pelham.ca

20 Pelham Town Square | PO Box 400 | Fonthill, ON | L0S 1E0

---

**TOWN OF PELHAM CONFIDENTIALITY NOTICE**

The information contained in this communication, including any attachments, may be confidential and is intended only for the use of the recipient(s) named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, disclosure, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please re-send this communication to the sender and permanently delete the original and any copy of it from your computer system. Thank you.



**Sarah Leach, BA.**

Administrative Assistant to the Clerk

Town of Pelham

T: 905-892-2607 x322 | E: sleach@pelham.ca

20 Pelham Town Square | PO Box 400 | Fonthill, ON | L0S 1E0

---

**TOWN OF PELHAM CONFIDENTIALITY NOTICE**

The information contained in this communication, including any attachments, may be confidential and is intended only for the use of the recipient(s) named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, disclosure, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please re-send this communication to the sender and permanently delete the original and any copy of it from your computer system. Thank you.



**Sarah Leach, BA.**

Administrative Assistant to the Clerk

Town of Pelham

T: 905-892-2607 x322 | E: sleach@pelham.ca

20 Pelham Town Square | PO Box 400 | Fonthill, ON | L0S 1E0

---

**TOWN OF PELHAM CONFIDENTIALITY NOTICE**

The information contained in this communication, including any attachments, may be confidential and is intended only for the use of the recipient(s) named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, disclosure, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please re-send this communication to the sender and permanently delete the original and any copy of it from your computer system. Thank you.

The Regional Municipality of Niagara Confidentiality Notice The information contained in this communication including any attachments may be confidential, is intended only for the use of the recipient(s) named above, and

may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, disclosure, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please re-send this communication to the sender and permanently delete the original and any copy of it from your computer system. Thank you.

**From:** [Nicholas Godfrey](#)  
**To:** [Sarah Leach](#)  
**Subject:** RE: Committee of Adjustment Notice of Hearing - March 16, 2021  
**Date:** Wednesday, March 3, 2021 4:04:13 PM

---

Hello Sarah,

The NPCA have no objections to the proposed application.

Best,

**Nicholas Godfrey, M.A.**  
**Watershed Planner**

Niagara Peninsula Conservation Authority (NPCA)  
250 Thorold Road West, 3<sup>rd</sup> Floor, Welland, ON, L3C 3W2  
905-788-3135, ext. 278  
[ngodfrey@npca.ca](mailto:ngodfrey@npca.ca)  
[www.npca.ca](http://www.npca.ca)

Due to the COVID-19 pandemic, the NPCA has taken measures to protect staff and public while providing continuity of services. The NPCA main office is open by appointment only with limited staff, please refer to the [Staff Directory](#) and reach out to the staff member you wish to speak or meet with directly.

Updates regarding NPCA operations and activities can be found at [Get Involved NPCA Portal](#), or on social media at [facebook.com/NPCAOntario](https://facebook.com/NPCAOntario) & [twitter.com/NPCA\\_Ontario](https://twitter.com/NPCA_Ontario).

For more information on Permits, Planning and Forestry please go to the Permits & Planning webpage at <https://npca.ca/administration/permits>.

For mapping on features regulated by the NPCA please go to our GIS webpage at <https://gis-npca-camaps.opendata.arcgis.com/> and utilize our Watershed Explorer App or GIS viewer.

To send NPCA staff information regarding a potential violation of Ontario Regulation 155/06 please go to the NPCA Enforcement and Compliance webpage at <https://npca.ca/administration/enforcement-compliance>.

---

**From:** Sarah Leach <SLeach@pelham.ca>  
**Sent:** February 4, 2021 8:59 AM  
**To:** Sarah Mastroianni <smastroianni@npca.ca>; Nicholas Godfrey <ngodfrey@npca.ca>  
**Subject:** Committee of Adjustment Notice of Hearing - March 16, 2021

Good afternoon,

For information only,

Attached, please find the notice of hearing for file(s)

- A13/2021P

Thank you,

Sarah



**Sarah Leach, BA.**

Administrative Assistant to the Clerk

Town of Pelham

T: 905-892-2607 x322 | E: sleach@pelham.ca

20 Pelham Town Square | PO Box 400 | Fonthill, ON | L0S 1E0

---

**TOWN OF PELHAM CONFIDENTIALITY NOTICE**

The information contained in this communication, including any attachments, may be confidential and is intended only for the use of the recipient(s) named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, disclosure, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please re-send this communication to the sender and permanently delete the original and any copy of it from your computer system. Thank you.



**Sarah Leach, BA.**

Administrative Assistant to the Clerk

Town of Pelham

T: 905-892-2607 x322 | E: sleach@pelham.ca

20 Pelham Town Square | PO Box 400 | Fonthill, ON | L0S 1E0

---

**TOWN OF PELHAM CONFIDENTIALITY NOTICE**

The information contained in this communication, including any attachments, may be confidential and is intended only for the use of the recipient(s) named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, disclosure, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please re-send this communication to the sender and permanently delete the original and any copy of it from your computer system. Thank you.



**Sarah Leach, BA.**

Administrative Assistant to the Clerk

Town of Pelham

T: 905-892-2607 x322 | E: sleach@pelham.ca

20 Pelham Town Square | PO Box 400 | Fonthill, ON | L0S 1E0

---

#### TOWN OF PELHAM CONFIDENTIALITY NOTICE

The information contained in this communication, including any attachments, may be confidential and is intended only for the use of the recipient(s) named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, disclosure, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please re-send this communication to the sender and permanently delete the original and any copy of it from your computer system. Thank you.

The information contained in this communication, including any attachment(s), may be confidential, is intended only for the use of the recipient(s) named above. If the reader of this message is not the intended recipient, you are hereby notified that any disclosure of this communication, or any of its contents, is prohibited. If you have received this communication in error, please notify the sender and permanently delete the original and any copy from your computer system. Thank-you. Niagara Peninsula Conservation Authority.



March 16, 2021

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

**Re: Minor Variance Application A14/2021P**  
**9 John Street, Pelham**  
Parts 2, 8 on RP 59R-16504, and Part of Parts 1-2 on RP 59R-15833  
**Roll No. 2732 030 020 13800**

---

The subject land is located on the northwest corner of John Street and Stella Street, legally described above, and known locally as 9 John Street in the Town of Pelham.

The subject land is zoned 'Residential 1' (R1) in accordance with Pelham Zoning By-law 1136 (1987), as amended. The minor variance application requests relief from:

- i. **Section 13.2 (c) "Maximum Lot Coverage"** to permit a maximum lot coverage of 40%, whereas 32.04% is allowed pursuant to a previous minor variance approval.

The proposal seeks to construct a single detached 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 subject land is located in a 'Settlement Area' according to the PPS. Policy 1.1.3.1 states that

settlement areas shall be the focus of growth and development.

Policy 1.1.3.4 states appropriate development standards should be promoted which facilitate *intensification*, *redevelopment* and compact form, while avoiding or mitigating risks to public health and safety. The proposed minor variance application has been submitted to seek relief from a site-specific zoning provision in order to facilitate the applicant's preferred site design layout, specifically the overall lot coverage.

Policy 2.6.2 states that development and site alteration shall not be permitted on lands containing archaeological resources or archaeological potential unless the resources have been conserved. The Town's Heritage Master Plan identifies this area as having high archaeological resource potential. However, the requested increase of lot coverage would have a limited impact on the amount of land to be disturbed that the previous dwelling, which recently existed, had not already disturbed.

The proposed development seeks to increase the maximum lot coverage to facilitate a single detached dwelling with an attached garage. Planning staff are of the opinion the requested zoning relief is consistent with the PPS and promotes appropriate development standards without causing adverse impacts on the use of the lands or neighbourhood.

#### 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 'Settlement Area' according to the Growth Plan. The vast majority of forecasted growth will be directed to *settlement areas* that have a *delineated built boundary*. Guiding principles regarding how land is developed:

- Support the achievement of *complete communities* to meet people's needs through an entire lifetime.
- Prioritize *intensification* and higher densities to make efficient use of land and *infrastructure*.
- Support a range and mix of housing options, including second units and *affordable* housing, to serve all sizes, incomes, and ages of households.
- Provide for different approaches to manage growth that recognize the diversity of

communities in the GGH.

- Integrate climate change considerations into planning and managing growth.

The proposed minor variance contemplates one zoning provision, to increase the maximum lot coverage from 32.04 % to 40 %. The zoning provision does not directly facilitate *intensification* by definition; unlike the previous severance application, which created this lot, instead, it seeks a particular building coverage. Planning staff are of the opinion that the requested variance conforms to the Growth Plan policies and will still preserve the desirable rear yard landscaped amenity area while also allowing new accessory buildings to be accommodated in the future.

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

The Regional Official Plan designates the subject land as ‘Designated Greenfield Area’ within the Urban Area Boundary.

Policy 4.G.6.2 indicates ‘Urban Areas’ will be the focus for accommodating the Region’s growth and development.

Policy 4.G.8.1 states *Built-Up Areas* will be the focus of residential intensification and redevelopment.

Policy 4.J.4 states the Region encourages private realm site design that addresses public safety, active transportation, landscaping, and human scale in buildings facing public space.

Policy 11.A.2 states the Region encourages the development of attractive, well designed residential construction that:

- c) Emphasizes the entrance.
- d) Is accessible to all persons.
- g) Provides an attractive, active transportation friendly streetscape.
- h) Contributes to a sense of safety within the public realm.
- j) Creates or enhances an aesthetically pleasing and functional neighbourhood.

#### 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 ‘Urban Living Area / Built Boundary’.

Policy A2.1.2 Natural Environment – states the natural environment objectives of this Plan are to make planning decisions that consider the health and integrity of the broader landscape as well as the long term and cumulative impacts on the ecosystem.

No key natural heritage features (i.e. *Significant Woodlands, Provincially Significant Wetlands or valleylands* etc.) are located near the subject lands.

Policy A2.3.2 Urban Character – stated objectives of this Plan include (among others):

- To enhance the *urban areas* as diverse, livable, safe, accessible and attractive communities.
- To ensure that new development areas are integrated into the fabric of the existing community in conformity with approved Secondary Plans.
- To encourage the development of neighbourhoods which are compact, pedestrian-friendly and provide a mix of housing types.
- To foster a sense of civic identity through a high standard of urban design in public and private development.

The proposed minor variance to increase the lot coverage will not compromise drainage, privacy or sensitive natural heritage features and is in keeping with the residential character of the neighbourhood.

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

The subject land is zoned ‘Residential 1’ (R1) 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 13.2 (c) “Maximum Lot Coverage”** to permit a maximum lot coverage of 40%, whereas 32.04% 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.	Increasing the lot coverage is minor overall, as it will continue to maintain a reasonably sized and desirable rear yard amenity area, yet still providing more design flexibility

	for the building footprint and / or to accommodate future accessory building(s).
2. The variance is desirable for the development or use of the land.	Increasing the lot coverage is desirable for the lands, as it will allow more design flexibility for the future residential dwelling, or potential accessory structures but also maintain an adequate rear yard amenity area.
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 neighbourhood's ability to be adequately serviced, maintain land use compatibility, while also improving the streetscape and urban design of Stella Street by providing a front porch closer to the public realm, subject to the condition for an adequate side Elevation Plan pursuant to minor variance file A22-2020P.
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 dwelling will still allow for adequate drainage and landscaped amenity area (with respect to the lot coverage), and not adversely impact the character.

### Agency & Public Comments

On January 27, 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:

- Public Works Department (March 2, 2021)
  - The applicant should ensure the existing water service is not located under the proposed driveway.

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

### Planning Staff Comments

The subject lands are located on the northwest corner of John Street and Stella Street. The property is currently surrounded by single detached residences on all sides.

The proposed minor variance application seeks zoning relief to increase the maximum lot coverage from 32.04 % to 40 %, in order to accommodate a single detached dwelling, attached garage and future accessory buildings. The applicants should have accounted for this deficiency under the previous minor variance application (file A22-2020P) with the expectation that future accessory buildings may be desired, however, they advised of a miscalculation. Without increasing the lot coverage to some degree, any future accessory structure may not be possible depending on the size of the dwelling's footprint with such a precisely approved lot coverage maximum, as was formerly approved.

Planning staff are of the opinion that the proposal applies current planning and development principles and providing design flexibility where suitable to do so. The proposed minor variance should not negatively impact the surrounding neighbourhood 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 A14/2021P **be approved**.

Prepared by,



Curtis Thompson,

Planner

Approved by,



Barb Wiens, MCIP, RPP

Director of Community Planning & Development

## **Memorandum**

### **Public Works Department - Engineering**

DATE: March 2, 2021  
TO: Curtis Thompson, Planner  
CC: Nancy J. Bozzato , Clerk; Holly Willford, Deputy Clerk; Jason Marr, Director of Public Works  
FROM: Xenia Pasiecznik, Engineering Technologist  
RE: File A14/2021P  
9 John Street

Public Works has completed a review of the minor variance application A14/2021P for relief of Pelham Zoning By-Law 1136(1987), as amended. The application is made to seek relief from the following:

- Section 13.2 (c) “Maximum Lot Coverage” – to permit a maximum lot coverage of 40% whereas the by-law allows 30% and whereas the property received a minor variance approval to allow 32.04%.

Public Works has the following comments;

1. That the applicant ensures the existing water service is not located within the proposed driveway.

March 16, 2021

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

**Re: Minor Variance Application A15/2021P**  
**702 Sumbler Road, Pelham**  
Concession 12, Part Lot 14, and Part 2 on RP 59R-2563  
**Roll No. 2732 010 018 08300**

The subject land is located on the southwest corner of Sumbler Road and Balfour Street, legally described above, and known locally as 702 Sumbler 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 lot coverage of 2.5%, whereas 1% is allowed; and
- ii. **Section 7.7 (d) "Maximum (Accessory) Building Height"** to permit a maximum building height of 6.1 m, whereas 3.7 m is allowed.

The proposal seeks to construct a building accessory to the existing 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 subject land is designated as 'Prime Agricultural Lands' 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).

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.

Policy 2.1.8 states that *development* and *site alteration* shall not be permitted on *adjacent lands* to the *natural heritage features and areas* identified in policies 2.1.4, 2.1.5, and 2.1.6 unless the *ecological function* of the *adjacent lands* has been evaluated and it has been demonstrated that there will be no *negative impacts* on the natural features or on their *ecological functions*.

Regional Environmental Planning staff conducted a site visit prior to receiving the application given the proximity between the proposed development and the *Provincially Significant Wetland (PSW)*. They have confirmed that the proposed accessory building and associated driveway are located entirely within manicured lawn, which, in this case is considered the existing *development* footprint and not in an undisturbed natural state. Regional staff have waived the requirement for an Environmental Impact Study (EIS) because all *development* and *site alteration* is a minimum of 30 m from the *PSW*. In lieu of an EIS, Regional staff are requesting a detailed Landscape Plan be submitted as a condition of approval demonstrating the restoration of the 30 m *vegetated protection zone (VPZ)* adjacent to the proposed development footprint.

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*. The Town's Heritage Master Plan identifies this area as having high archaeological resource potential.

In response to policy 2.6.2, the applicant conducted a Stage 1 – 2 Archaeological Assessment, which concluded no significant archaeological resources exist within the study area. The Ministry of Heritage, Sport, and Tourism Culture Industries acknowledgement clearance letter is pending at this time.

#### 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 designated as 'Prime Agricultural Lands' according to the Growth Plan.

*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*.

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.

Policy 4.2.3 states that outside of *settlement areas*, *development* or *site alteration* is not permitted in *key natural heritage features* or *key hydrologic features*, except for expansions or alterations to existing buildings, accessory structures and uses. This exemption is subject to demonstration that the use does not expand into the *key hydrologic / natural heritage features* or *vegetation protection zone (VPZ)* unless there is no other alternative, in which case any expansion will be limited in scope and kept within close geographical proximity to the existing footprint.

Policy 4.2.4 states that outside *settlement areas*, a proposal for new *development* or *site alteration* within 120 m of a *key natural heritage feature* within the *Natural Heritage System* or a *key hydrologic feature* will require a natural heritage evaluation that identifies a *VPZ*. *Development* or *site alteration* is not permitted in the *VPZ*, with the exception of that described in policy 4.2.3.1.

Regional Environmental Planning staff conducted a site visit prior to the application and have confirmed that the proposed accessory building and associated driveway are located entirely within manicured lawn, which, in this case is considered the existing *development* footprint. Regional staff have waived the requirement for an Environmental Impact Study (EIS) because all *development* and *site alteration* is a minimum of 30 m from the *Provincially Significant Wetland (PSW)*. In lieu of an EIS, Regional staff are requesting a detailed Landscape Plan be submitted as a condition of approval demonstrating the restoration of the 30 m *vegetation protection zone (VPZ)* adjacent to the proposed development footprint.

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, subject to conditions, adversely

impact the sensitive *key natural heritage features*, 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’. The subject lands are also impacted by the following environmental designations: Environmental Protection Area (EPA) and Environmental Conservation Area (ECA).

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 Area’, ‘Environmental Protection One’ (EP1) and ‘Environmental Protection Two’ (EP2).

Policy A2.1.2 Natural Environment – states the natural environment objectives of this Plan are to make planning decisions that consider the health and integrity of the broader landscape as well as the long term and cumulative impacts on the ecosystem.

Policy B2 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. Among other uses, one single detached dwelling is permitted on a vacant lot of record. The subject lands are surrounded by a *Provincially Significant Wetland, Significant Woodland* and rural residential dwellings. Accessory buildings that serve legal residential dwellings are permitted uses, *as-of-right* in the Official Plan and Zoning By-law, subject to any applicable zoning regulations and applicable policy.

Policy B3.2.4.3 (EP3 Adjacent Lands) – states that no development or site alteration shall be permitted on lands within 120 m of a *PSW* unless an EIS demonstrates that there will be no negative impact on the feature or its ecological functions.

It is important to note that the Town, Region and NPCA have a *Memorandum of Understanding (MoU)* respecting the delivery of certain planning services and functions in Niagara. The *MoU* provides that the responsibility for the approval of Environmental Impact Studies in areas outside of *settlement areas* to rest with the Region as they have qualified staff in that specialty.

The subject lands are located outside of the urban *settlement areas* and the Region has waived the natural heritage evaluation (EIS) policy requirement in this case because the proposed structure is to be located outside of the prescribed 30 m *VPZ*. The *VPZ* will need to be naturally landscaped and planted with self-sustaining vegetation as per the Region's requested conditions. The lands subject to development have also already been impacted by human settlement. Therefore, Town staff can support waiving the requirement for an EIS given the proposed condition and Regional comments.

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. In response to this policy requirement, the applicant conducted a Stage 1 – 2 Archaeological Assessment, which concluded no significant archaeological resources exist within the study area. The Ministry of Heritage, Sport, and Tourism Culture Industries acknowledgement clearance letter is pending at this time.

Policy E1.5 (Minor Variances) – states that applicants should be prepared to demonstrate a need for the requested zoning relief on the basis that the subject zoning provision is not warranted in a particular circumstance, causes undue hardship, or is otherwise impossible to comply with.

The Planning Justification Brief submitted with the application spoke to the 4 tests under the *Planning Act* and policy E1.5. Town Planning staff recognize the proposed accessory building is 223 m<sup>2</sup> (2,400 ft<sup>2</sup>) in size, which is by no means 'small'. The structure would have a larger footprint than the dwelling (170 m<sup>2</sup>) and it will not be used for agricultural purposes. The applicant must realize that the Zoning By-law prohibits the use of accessory buildings for gain or profit (i.e. home occupations), and the use of these buildings are exclusively to serve the residential needs of the dwelling in a subordinate manner.

The proposed building Elevation Plans are incongruent with the proposed Site Plan. In that, the proposed overhead doors are shown on the long walls whereas the proposed driveway only

accesses the short wall on the north flank. These Elevation Plans must be reconfigured to support this driveway configuration, and have been identified in the conditions of approval. It is likely not possible to reorient the proposed driveway to serve the long walls and yet still receive supportive comments from Regional Planning staff, Town Planning staff or Town Engineering staff, collectively given the site constraints at this proposed footprint.

Therefore, pending the requested conditions outlined below accompany the proposed minor variance approval, Town Planning staff are of the opinion the proposed development conforms to the Official Plan.

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

The subject land is zoned 'Agricultural' (A) 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 lot coverage of 2.5%, whereas 1% is allowed; and
- ii. **Section 7.7 (d) "Maximum (Accessory) Building Height"** to permit a maximum building height of 6.1 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 and height is minor overall assuming the requested conditions of approval are fulfilled without discount and given the rural character of the area.
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 relatively small in size and constrained by the surrounding <i>key natural heritage features</i>. The rural residential lot is an existing lot of record that could not be created under current Provincial, Regional or local policies and is unsurprisingly unlikely to ever support a viable agricultural 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 subject to suitable street facing (east) building Elevation Plans being approved and adhered to.</p>

<p>3. The variance maintains the general intent and purpose of the Official Plan.</p>	<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 and requested condition for revised Elevation Plans, the requested increase in building height will not compromise the objectives of the Official Plan, particularly with respect to land use compatibility, storm water runoff and private sewage system servicing capabilities.</p> <p>The requested increase of accessory building lot coverage directly affects the development's horizontal footprint upon the lands. As such, there are requested conditions of approval which are meant to ensure the protection of cultural heritage resources and sensitive <i>key natural heritage features</i> and <i>key natural hydrologic features</i>.</p> <p>The variances are appropriate given the site's rural context and meet the general intent of the Town Official Plan policies.</p>
<p>4. The variance maintains the general intent and purpose of the Zoning By-law.</p>	<p>The size of the proposed accessory building's height and increased lot coverage to 2.5 % is appropriate given the smaller lot size of this existing rural-residential lot of record. 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. Subject to conditions, particularly the Landscape Plan requiring a 30 m VPZ of natural self-sustaining vegetation, the zoning relief maintains the intent of the Zoning By-law with respect to accessory building massing, siting and locational scale.</p>

### Agency & Public Comments

On February 10, 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 Peninsula Conservation Authority (March 3, 2021)
  - See attached.
  - No objections.
- Niagara Region Planning & Development Services (March 3, 2021)

- See attached.
- See conditions.
- Public Works Department (March 2, 2021)
  - See conditions.

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

### Planning Staff Comments

The subject lands are located on the southwest corner of Sumbler Road and Balfour Street. The property is currently surrounded by *Provincially Significant Wetlands, significant woodlands*, and rural residential dwellings.

The proposed minor variance application seeks zoning relief to increase the maximum (accessory) building height from 3.7 m to 6.1 m and to increase the maximum (accessory) lot coverage from 1 % to 2.5 %, in order to accommodate the proposed 223 m<sup>2</sup> (2,400 ft<sup>2</sup>) accessory building.

Planning staff are of the opinion that, subject to conditions, the proposal should not negatively impact the adjacent *key natural heritage features*, surrounding neighbourhood 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 A15/2021P **be approved**, subject to the following conditions:

#### **THAT** the applicant

- Amend the building Elevation Plans to remove all overhead door(s) on the east / west walls and relocate them onto the north wall, congruent with the current proposed driveway alignment, as well as provide a symmetrically proportionate amount of glazing to the building's mass on the east façade, to the satisfaction of the Director of Community Planning & Development.
- Obtain approval for a Driveway Entrance and Culvert Permit for the construction or modification of all new or existing driveway entrances. Installation of driveway entrances shall be in accordance with Town standards, to the satisfaction of the Director of Public Works and the applicant shall bear all costs associated with such.



- Obtain clearance from the Ministry of Heritage, Sport, Tourism & Culture Industries for the Stage 1 – 2 Archaeological Assessment, prepared by Detritus Consulting Limited (dated December 23, 2020), and that a copy of the Ministry's acknowledgement letter be provided to the Region. If the Ministry requires further archaeological work to be completed prior to acknowledging this Report, these Report(s) must also be submitted to and acknowledged by the Ministry, to the satisfaction of the Region, prior to clearance of this condition. No demolition, grading or other soil disturbances shall take place on the subject lands prior to the issuance of clearance letter from the Ministry through Niagara Region.
- Provide a revised Site Plan illustrating the study area shown on Figure 4 of the Stage 1 – 2 Archaeological Assessment, prepared by Detritus Consulting.
- Submit a Landscape Plan prepared by a qualified professional illustrating the restoration of the 30 m *vegetated protection zone* adjacent to the development footprint, including all proposed construction, grading and site alteration, to the satisfaction of the Niagara Region.
- Ensure no plumbing or living spaces be provided within the accessory building at the time of building permit, and that a new sewage system be installed to service the property, meeting all requirements of the *Ontario Building Code*.

Prepared by,



Curtis Thompson,  
Planner

Approved by,



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



## **Memorandum**

### **Public Works Department - Engineering**

DATE: March 2, 2021  
TO: Curtis Thompson, Planner  
CC: Nancy J. Bozzato , Clerk; Holly Willford, Deputy Clerk; Jason Marr, Director of Public Works  
FROM: Xenia Pasiecznik, Engineering Technologist  
RE: File A15/2021P  
702 Sumbler Road

Public Works has completed a review of the minor variance application A15/2021P for relief of Pelham Zoning By-Law 1136(1987), as amended. The application is made to seek relief from the following:

- Section 7.7 (a) “Maximum (Accessory) Lot Coverage” – to permit a maximum lot coverage of 2.5% whereas the by-law allows 1%;
- Section 7.7 (d) “Maximum Building Height” – to permit a maximum building height of 6.1m whereas the by-law allows 3.7m.

Public Works has the following comments;

1. That the applicant obtain approval through a Driveway Entrance and Culvert Permit from the Public Works Department to install a new driveway onto Town right-of-way.

**Planning and Development Services**

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7  
905-980-6000 Toll-free: 1-800-263-7215

---

**Via Email Only**

March 3, 2021

File No.: D.17.06.MV-21-0013

Nancy Bozzato, Dipl.M.M., AMCT  
Town Clerk/Secretary-Treasurer  
Town of Pelham  
20 Pelham Town Square, PO Box 400  
Fonthill, ON L0S 1E0

Dear Ms. Bozzato:

**Re: Regional and Provincial Comments**  
**Minor Variance**  
**Town File No: A15/2021P**  
**Applicant/Owner: [REDACTED]**  
**Address: 702 Sumbler Road, Town of Pelham**

---

Regional Planning and Development Services staff have reviewed the information circulated for the above-noted minor variance application, which has been proposed to facilitate the construction of an accessory storage building on the subject lands. The applicant is seeking a variance to permit an increase in the maximum accessory building height and lot coverage for this structure.

A preconsultation meeting for this application was held on November 5, 2020, with staff from the Town, Region and Niagara Peninsula Conservation Authority, as well as the Owner in attendance.

The following Provincial and Regional comments are provided to assist the Committee in their consideration of the application.

**Provincial and Regional Policies**

The subject lands are located within a Prime Agricultural Area under the Provincial Policy Statement (PPS) and are designated as Good General Agricultural Area in the Regional Official Plan (ROP).

Provincial and Regional policies recognize that agricultural land is a valuable asset that must be properly managed and protected. Permitted uses in these areas include

agriculture, agriculture-related, and on-farm diversified uses. Provincial and Regional policies also permit expansions to legally established existing uses within these designations, provided the expansion will not have a negative impact on environmental features or result in the intrusion of new incompatible uses. The expansion or change in use is also subject to the need and desirability of the operation; regard for environmental, agricultural, and other policies of the ROP; compatibility with existing surrounding uses; access and servicing requirements being met; and no additional municipal services being required.

The proposed accessory building will be accessory to an existing dwelling on the subject property. As is outlined further below, the proposed accessory building will be located within the existing development footprint of the lot, and will thus not have a negative impact on the environmental features on the property, provided a landscape plan is submitted to the satisfaction of Regional staff which illustrates the restoration of the Vegetated Protection Zone (VPZ) adjacent to the development footprint. Further, the property is privately serviced, and therefore new municipal services will not be required. As discussed further below, there are no servicing concerns associated with the proposal provided a new septic system is installed meeting Ontario Building Code requirements. The subject property is undersized and therefore future agricultural use of the property is unlikely. Additionally, the proposed accessory building should not impede agricultural use of the adjacent properties. Accordingly, Regional staff are of the opinion that the proposed use is consistent with the PPS, and conforms to Provincial and Regional policies, subject to the comments below.

## **Archaeological Potential**

The PPS and 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.

At the preconsultation meeting, the subject lands were identified as having high potential for the discovery of archaeological resources given their proximity (within 300 metres) to a watercourse. A Stage 1 and 2 Archeological Assessment, prepared by Detritus Consulting Limited (dated December 23, 2020) was submitted with the application. This assessment was scoped to the original location of the proposed development, which has since been moved closer to the easterly exterior side lot line to address the minimum required setback to the wetland features impacting the property.

Based on the site plan submitted with the minor variance application, the current footprint of the proposed accessory building appears to remain within the study area of this report. However, the driveway that will provide access to this building has been

reoriented and is now no longer wholly contained within the study area. In the opinion of Regional staff, the construction of this driveway will likely not result in deep excavation that has the potential to result in deep ground disturbance of archaeological resources on-site. Accordingly, an additional archeological assessment to address the new location of the proposed driveway is not warranted.

The submitted Stage 2 Archeological Assessment did not result in the identification of any archaeological resources, and the Licensed Archaeologist recommended that additional archaeological assessment for the study area was not warranted. As of the date of this letter, a letter from the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) confirming that all archaeological resource concerns have met licensing and resource conservation requirements has not been received. Accordingly, a condition requiring submission of the acknowledgement letter from the Ministry is recommended.

It is also recommended that the applicant be required to show the location of the study area of the archeological assessment on the final site plan for the proposed development. This will aid future property owners, as well as Town and Regional staff, in determining archeological requirements for any future development on the subject lands, since, as noted in the submitted assessment, a Stage 1 archaeological assessment, at minimum, will be required for any future development located outside of this study area. A condition to the address this requirement is included in the conclusion to this letter.

## **Core Natural Heritage System**

The subject property is impacted by the Region's Core Natural Heritage System (CNHS), consisting of the Upper Coyle Creek Provincially Significant Wetland Complex (PSW) and Significant Woodland (see attached map). The property is also mapped as part of the Growth Plan for the Greater Golden Horseshoe's (Growth Plan) Provincial Natural Heritage System, which identifies these CNHS features as Key Natural Heritage Features (KNHF).

Growth Plan policies typically require the completion of a Natural Heritage Evaluation (NHE) when development and/or site alteration is proposed within 120 metres of a KNHF. Regional policies similarly require the completion of an Environmental Impact Study (EIS) when development and/or site alteration is proposed within 120 metres of PSW and within 50 metres of Significant Woodland. Further, Growth Plan policies also require that a 30 metre Vegetation Protection Zone (VPZ), as measured from the outside boundary of a KNHF, be established with natural self-sustaining vegetation.

Regional Environmental Planning staff visited the property on December 9, 2020, and have confirmed that the proposed accessory building and associated driveway are to be located entirely within manicured lawn, which, in this case, is considered the existing development footprint. As a result of the information gathered at the site visit and due to the scope, nature and location of the proposed development, staff are supportive of

waiving the requirement for an EIS, since all development and site alteration is a minimum of 30 metres from the wetland features impacting the site. In lieu of an EIS, a landscape plan will be required which illustrates the restoration of the 30 metre VPZ adjacent to the development footprint, including all construction and site alteration, including grading. A condition to the address this requirement is included in the conclusion to this letter.

## **Private Servicing**

Regional Private Sewage Systems (PSS) staff have reviewed the application, and note that no record was found for the existing sewage system servicing the property. At the time of PSS staff's inspection, the existing system was not exposed, and therefore its exact location and functionality is unknown. The detached accessory building is proposed to be located south of the existing dwelling on the property and it is unclear if it encroaches onto the existing sewage system. The owner has applied to install a new septic system to service the existing dwelling. The new septic system is proposed at the northeast corner of the property, and meets the required Ontario Building Code setbacks. At this time, the new system is awaiting Niagara Peninsula Conservation Authority (NPCA) permit approval.

Therefore, based on the information submitted with the minor variance application, PSS staff have no objections to the proposed accessory building, provided no plumbing or living space is included within it, and a new sewage system is installed for the property meeting Ontario Building Code requirements.

## **Conclusion**

In conclusion, Regional Planning and Development Services staff have no objections to the proposed minor variance application from a Provincial or Regional perspective, subject to the satisfaction of any local requirements, and the following conditions:

1. That the applicant receive acceptance from the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) for the Stage 1 and 2 Archeological Assessment, prepared by Detritus Consulting Limited (dated December 23, 2020), and that a copy of the MHSTCI acknowledgement letter be provided to the Region. If the Ministry requires further archaeological work to be completed prior to acknowledging this report, these report(s) must also be submitted to and acknowledged by the Ministry, to the satisfaction of Niagara Region, prior to clearance of this condition. No demolition, grading or other soil disturbances shall take place on the subject property prior to the issuance of a letter from MHSTCI through Niagara Region, confirming that all archaeological resource concerns have met licensing and resource conservation requirements.
2. That the site plan be updated to show the study area illustrated on Figure 4 to the Stage 1 and 2 Archeological Assessment, prepared by Detritus Consulting

March 3, 2021

---

Limited (dated December 23, 2020), and submitted to the satisfaction of Niagara Region.

3. That a landscape plan be submitted to the satisfaction of Niagara Region which illustrates the restoration of the 30 metre Vegetated Protection Zone adjacent to the development footprint, including all construction and site alteration, including grading.
4. That the accessory building not contain any plumbing or living spaces, and that a new sewage system be installed to service the property, which meets all requirements of the Ontario Building Code.

Provided these conditions are addressed, the proposal is consistent with the Provincial Policy Statement and conforms to Provincial Plans and the Regional Official Plan from a Provincial and Regional perspective.

Please send a copy of the staff report and notice of the Committee's decision on this application.

If you have any questions related to the above comments, please contact me at [Amy.Shanks@niagararegion.ca](mailto:Amy.Shanks@niagararegion.ca), or Britney Fricke, MCIP, RPP, Senior Development Planner at [Britney.Fricke@niagararegion.ca](mailto:Britney.Fricke@niagararegion.ca).

Kind regards,



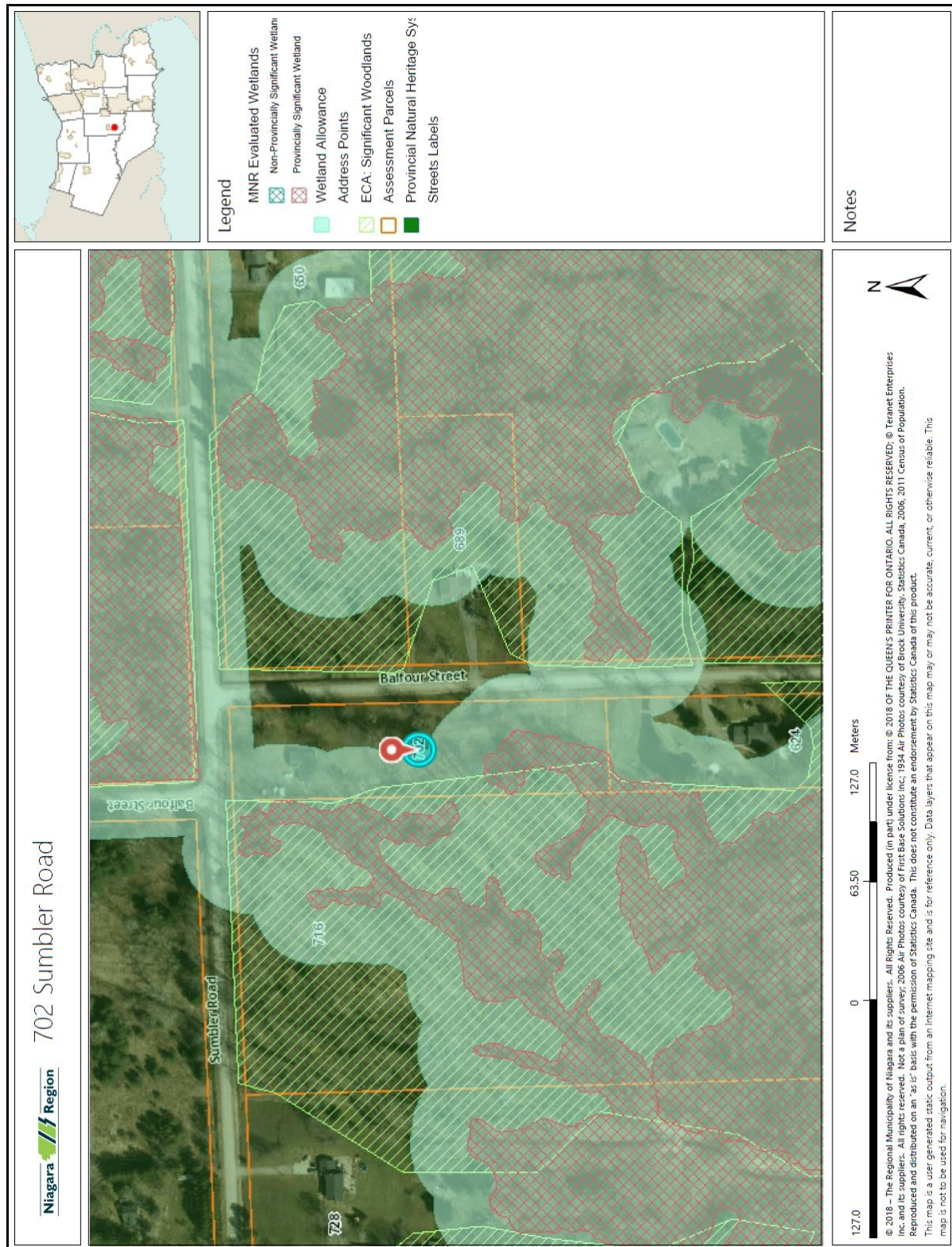
Amy Shanks  
Development Planner

cc: Britney Fricke, Senior Development Planner, Niagara Region  
Lori Karlewicz, Planning Ecologist, Niagara Region  
Justin Noort, Private Sewage System Inspector, Niagara Region  
Curtis Thompson, Planner, Town of Pelham  
Nicholas Godfrey, Watershed Planner, Niagara Peninsula Conservation Authority

Appendix: Core Natural Heritage Features Map



## Appendix: Core Natural Heritage Features Map



**From:** [Nicholas Godfrey](#)  
**To:** [Sarah Leach](#)  
**Cc:** [Curtis Thompson](#)  
**Subject:** RE: Committee of Adjustment Notice of Hearing - March 16, 2021  
**Date:** Wednesday, March 3, 2021 3:01:14 PM

---

Hello,

Please note the subject property is within the 30m buffer of a Provincially Significant Wetland, and within the buffer of a regulated watercourse to the north of the property. The applicant has submitted a permit application to our office for works within both buffers for the installation of a septic tank in the north-east of the property (to meet a conditional requirement of the Region). The NPCA is in a position to support the permit application, and given the scope, nature and location of the proposed variance and associated works, the NPCA have no objections to the variance.

Please let me know if you have any questions.

Best,

**Nicholas Godfrey, M.A.**

**Watershed Planner**

Niagara Peninsula Conservation Authority (NPCA)

250 Thorold Road West, 3<sup>rd</sup> Floor, Welland, ON, L3C 3W2

905-788-3135, ext. 278

[ngodfrey@npca.ca](mailto:ngodfrey@npca.ca)

[www.npca.ca](http://www.npca.ca)

Due to the COVID-19 pandemic, the NPCA has taken measures to protect staff and public while providing continuity of services. The NPCA main office is open by appointment only with limited staff, please refer to the [Staff Directory](#) and reach out to the staff member you wish to speak or meet with directly.

Updates regarding NPCA operations and activities can be found at [Get Involved NPCA Portal](#), or on social media at [facebook.com/NPCAOntario](https://facebook.com/NPCAOntario) & [twitter.com/NPCA\\_Ontario](https://twitter.com/NPCA_Ontario).

For more information on Permits, Planning and Forestry please go to the Permits & Planning webpage at <https://npca.ca/administration/permits>.

For mapping on features regulated by the NPCA please go to our GIS webpage at <https://gis-npca-camaps.opendata.arcgis.com/> and utilize our Watershed Explorer App or GIS viewer.

To send NPCA staff information regarding a potential violation of Ontario Regulation 155/06 please go to the NPCA Enforcement and Compliance webpage at <https://npca.ca/administration/enforcement-compliance>.

---

**From:** Sarah Leach <SLeach@pelham.ca>

**Sent:** February 10, 2021 11:07 AM

**To:** Development Planning Applications <devtplanningapplications@niagararegion.ca>;



Amy.Shanks@niagararegion.ca; rowcentre@bell.ca; Nicholas Godfrey <ngodfrey@npca.ca>; Sarah Mastroianni <smastroianni@npca.ca>

**Subject:** Committee of Adjustment Notice of Hearing - March 16, 2021

Good afternoon,

Attached, please find the notice of hearing for file(s)

- A15/2021P – 702 Sumbler Road

Payment for this file has been made electronically by the applicant.

Thank you,  
Sarah



**Sarah Leach, BA.**

Administrative Assistant to the Clerk

Town of Pelham

T: 905-892-2607 x322 | E: sleach@pelham.ca

20 Pelham Town Square | PO Box 400 | Fonthill, ON | L0S 1E0

---

#### TOWN OF PELHAM CONFIDENTIALITY NOTICE

The information contained in this communication, including any attachments, may be confidential and is intended only for the use of the recipient(s) named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, disclosure, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please re-send this communication to the sender and permanently delete the original and any copy of it from your computer system. Thank you.

The information contained in this communication, including any attachment(s), may be confidential, is intended only for the use of the recipient(s) named above. If the reader of this message is not the intended recipient, you are hereby notified that any disclosure of this communication, or any of its contents, is prohibited. If you have received this communication in error, please notify the sender and permanently delete the original and any copy from your computer system. Thank-you. Niagara Peninsula Conservation Authority.

March 16, 2021

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

**Re: Minor Variance Application A16/2021P**  
**Walker Road, Pelham**  
Block 38, Plan 59M-476  
**Roll No. 2732 030 020 07143**

The subject land is located on the south side of Walker Road, lying west of Rice Road with additional frontage on Rice Road and legally described above, in the Town of Pelham.

The subject land is zoned 'Residential Multiple 1 – 269' (RM1-269) in accordance with Pelham Zoning By-law 1136 (1987), as amended. The minor variance application requests relief from:

- i. **Section 30. (Exceptions) No. 269 – Section 16.4 (e) “Minimum Side Yard”** to permit a side yard of 2.3 m, whereas 3 m is required.
- ii. **Section 30. (Exceptions) No. 269 – Section 16.4 (f) “Minimum Rear Yard”** to permit a rear yard of 2.3 m for units 7 – 8 & 21, whereas 6 m is required.
- iii. **Section 6.16 (d) (i) “Ingress & Egress – Minimum 2-way Drive Aisle Width”** to permit a 2-way drive aisle width of 7 m, whereas 7.5 m is required.
- iv. **Section 6.35 (c) “Yard Encroachments – Unenclosed Porches, Balconies, Steps & Patios”** to permit deck encroachments of 3 m, whereas 1.5 m is allowed.

The proposed minor variance will help facilitate a 21-unit block townhouse development (known as *Saffron Valley Phase 1*) which is currently undergoing Site Plan Approval technical review (file SP-08-2020).

### **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 ‘Settlement Area’ according to the PPS. Policy 1.1.3.1 states that settlement areas shall be the focus of growth and development.

Policy 1.1.3.4 states appropriate development standards should be promoted which facilitate *intensification, redevelopment* and compact form, while avoiding or mitigating risks to public health and safety.

Policy 2.6.2 states that development and site alteration shall not be permitted on lands containing archaeological resources or archaeological potential unless the resources have been conserved. The Town’s Heritage Master Plan identifies this area as having high archaeological resource potential, therefore an Stage 1 – 3 Archaeological Assessment and Ministry Clearance was previously completed and obtained as part of the Saffron Meadows Phase 1-2 subdivisions, which created this block of developable land.

The proposed minor variance application has been submitted to seek relief from certain site-specific zoning provisions in order to facilitate the applicant’s preferred site design layout. Planning staff are of the opinion the requested zoning relief is consistent with the PPS and promotes appropriate development standards that help facilitate compact form while meeting *Greenfield* designation and urban design policy objectives.

#### 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 a *designated Greenfield area* and is located within a ‘Settlement Area’ according to the Growth Plan. *Designated Greenfield areas* are required to accommodate forecasted growth to this Plan’s horizon. Guiding principles regarding how land is developed:

- Support the achievement of *complete communities* to meet people’s needs through an entire lifetime.
- Prioritize *intensification* and higher densities to make efficient use of land and

*infrastructure.*

- Support a range and mix of housing options, including second units and *affordable* housing, to serve all sizes, incomes, and ages of households.
- Provide for different approaches to manage growth that recognize the diversity of communities in the GGH.
- Integrate climate change considerations into planning and managing growth.

The requested zoning provisions help facilitate an efficient medium density townhouse development by allowing larger, more usable rear yard amenity decks to be built, and upgraded architectural elevations flanking the Rice Road public realm. The reduced side yard setback will better address the Rice Road streetscape and multi-use trail fostering a stronger sense of place through built form and urban design. The reduced 2-way drive aisle width helps ensure vehicle speeds are not excessive, reduces unnecessary stormwater runoff, leaves more space for landscaping and houses and still accommodates fire and waste collection trucks. No sensitive *key natural heritage features* or deeply buried archaeological resources will be impacted by the proposed zoning relief.

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

The Regional Official Plan designates the subject land as ‘Designated Greenfield Area’ within the Urban Area Boundary.

Policy 4.G.6.2 indicates ‘Urban Areas’ will be the focus for accommodating the Region’s growth and development.

Policy 4.C.5 states *Designated Greenfield Areas* will be planned as compact, complete communities by:

- a) Where permitted by scale, accommodating a range of land uses.
- b) Where limited by scale or configuration, making a significant contribution to the growth of the respective *Urban Area*.
- c) Providing opportunities for integrated, mixed land uses.
- e) Ensuring that Greenfield development is sequential, orderly and contiguous with existing built-up areas.

Policy 4.J.4 states the Region encourages private realm site design that addresses public safety, active transportation, landscaping, and human scale in buildings facing public space.

Policy 11.A.2 states the Region encourages the development of attractive, well designed residential construction that:

- c) Emphasizes the entrance.
- d) Is accessible to all persons.
- g) Provides an attractive, active transportation friendly streetscape.
- h) Contributes to a sense of safety within the public realm.
- j) Creates or enhances an aesthetically pleasing and functional neighbourhood.

#### 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 'Secondary Plan Area' within the Fonthill Settlement Area. More specifically, the East Fonthill Secondary Plan designates this parcel as EF – Low Density Residential. Policy B1.7.7.3 outlines the permitted uses and development policies of this designation.

Policy A2.1.2 Natural Environment – states the natural environment objectives of this Plan are to make planning decisions that consider the health and integrity of the broader landscape as well as the long term and cumulative impacts on the ecosystem.

The NPCA indicated they have no objections and Niagara Region has been involved through all previous development application on these lands and the current Site Plan Control application process.

Policy A2.3.2 Urban Character – stated objectives of this Plan include (among others):

- To enhance the *urban areas* as diverse, livable, safe, accessible and attractive communities.
- To ensure that new development areas are integrated into the fabric of the existing community in conformity with approved Secondary Plans.
- To encourage the development of neighbourhoods which are compact, pedestrian-friendly and provide a mix of housing types.
- To foster a sense of civic identity through a high standard of urban design in public and private development.

The proposed minor variances have some impact on the stated objectives of Policy A2.3.2 as they relate to streetscape and urban design matters. Particularly, the requested encroachments will actually enhance the public realm of both the multi-use trail along the eastern flank, but also the Rice Road streetscape broadly by fostering a more engaging design of unit 17 with architectural protrusions such as a bay window and other fenestrations.

Policy A2.5.2 Infrastructure – stated objectives of this Plan include maintaining existing infrastructure in a manner that is cost effective and contributes to the quality of life of citizens.

Policy B1.7.3.1 (East Fonthill) Development Objectives – states that the following private (and public) development objectives will be implemented by the mechanisms in the Official Plan, the implementing Zoning and Site Plan Approvals. The East Fonthill development objectives (that relate to this development) are:

- a) To ensure that the community is development with a compact urban form and at an appropriate scale that is pedestrian-oriented and fosters community interaction;
- b) To ensure a well-designed, attractive, pedestrian & bicycle-friendly community that includes an appropriate mix of housing types;
  - ✓ The subject lands are surrounded by an evolving urban area which will become very conducive to active transportation. Specifically in addition to standard sidewalks on all public streets, Walker Road supports a 2-way raised cycle track that will connect central Fonthill to the off-road trail system adjoining and branching from the west side of Rice Road throughout East Fonthill.
- c) To create a sense of identity and continuity within the community through design treatments that residents and visitors can recognize as characteristic of the Secondary Plan Area;
  - ✓ The concurrent Site Plan Approval application requires a full set of high quality architectural building Elevation Plans that form part of the Site Plan Agreement and become legally binding / registered on title.
- d) To create a complete community with a safe, healthy and functional environment that can accommodate between 6,500 and 7,500 new residents and jobs combined;
  - ✓ The proposed minor variances do not hamper the ability for East Fonthill to meet its projected growth targets.
- k) To develop a land use pattern and transportation system that supports motorized vehicular traffic, transit, cyclists and pedestrians and provides alternate transportation routes to most destinations;
  - ✓ The subject lands utilize a private laneway for vehicle access, and the reduced drive aisle width help calm traffic speeds improving safety for pedestrians despite a lack of sidewalks. The proposed zoning relief does not conflict with this policy.

Town Planning staff are of the opinion the proposed zoning relief conforms to the East Fonthill Secondary Plan policies and the Official Plan broadly.

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

The subject land is zoned 'Residential Multiple 1 – 291' (RM1-291) in accordance with Pelham Zoning By-law 1136 (1987), as amended. The minor variance application requests relief from:

- i. **Section 30. (Exceptions) No. 269 – Section 16.4 (e) “Minimum Side Yard”** to permit a side yard of 2.3 m, whereas 3 m is required.
- ii. **Section 30. (Exceptions) No. 269 – Section 16.4 (f) “Minimum Rear Yard”** to permit a rear yard of 2.3 m for units 7 – 8 & 21, whereas 6 m is required.
- iii. **Section 6.16 (d) (i) “Ingress & Egress – Minimum 2-way Drive Aisle Width”** to permit a 2-way drive aisle width of 7 m, whereas 7.5 m is required.
- iv. **Section 6.35 (c) “Yard Encroachments – Unenclosed Porches, Balconies, Steps & Patios”** to permit deck encroachments of 3 m, whereas 1.5 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.	<p>Reducing the side yard setback on unit 17 is minor overall as the dwelling positively captures the attention of the Rice Road public space and helps to foster a ‘<i>sense of place</i>’ through enhanced architectural details such as bay windows. There are no safety concerns with the requested setback and it is considered minor in nature.</p> <p>Reducing the rear yard setback for units 7-8 &amp; 21 is minor overall and technical in nature. The original site-specific zoning did not anticipate the integrated nature of the subject lands and 1304 Rice Road to the south with connected laneways. As a result, this rear yard setback will function, be observed and operate as an interior side yard setback to the future dwelling to the south. The enhanced connectivity between these developments is far more important from a land use compatibility and urban planning design perspective. There are no negative impacts that would arise from this reduction to a 2.3 m side yard buffer.</p> <p>Normally, there might be legitimate privacy concerns associated with ever encroaching raised, rear yard decks located closer to other private rear yards. However, the requested rear yard deck encroachment backs onto designated and fenced in, environmental protection lands.</p>

	<p>Reducing the 2-way drive aisle width is objectively minor as the default 7.5 m provision is arguably quite excessive for modern development standards. The default 2-way drive aisle width does not ensure a safer or more functional passage of domestic, emergency or service vehicles that are not already being achieved elsewhere with far narrower drive aisle widths with prescribed corner radii. Narrower drive aisle widths are far more conducive to strong urban environments where slow vehicle speeds are desirable and critical to the comfort and safety of the community.</p> <p>Town staff are of the opinion that the requested zoning relief are objectively minor in nature and will not cause any adverse impacts.</p>
2. The variance is desirable for the development or use of the land.	<p>The zoning relief sought, both individually and collectively are desirable for the subject lands as they will allow for an adequate increase in the underserved Pelham housing supply. They will also help create a geometrically and well-connected land use &amp; transportation system, improve the Rice Road streetscape through better urban design treatments and improve rear yard amenity spaces without unduly causing insensitive privacy concerns or adverse impacts to surrounding lands.</p>
3. The variance maintains the general intent and purpose of the Official Plan.	<p>A <i>Planning Justification Brief</i> was supplied and spoke to the <i>Four Tests</i> of the <i>Planning Act</i> as well as some policies generally. Town staff are of the opinion the requested zoning relief will not compromise the general intent of the Official Plan as the reduced side yard setback and drive aisle width represent better urban design standards in an evolving compact, residential neighbourhood as well as promoting a better '<i>sense of place</i>' around public spaces. There are no sensitive natural heritage features, privacy concerns, or stormwater management issues. These matters were also addressed under the Site Plan Approval process.</p> <p>The requested deck encroachments uphold the policy objectives because private amenity areas will be provided and enhanced given the size available, stormwater drainage can be adequately conveyed without negative impacts and there are no apparent privacy concerns for the surrounding</p>



	<p>neighbours. The adjacent rear yards of the dwellings along the south side of Walker Road have minimum 6 m rear yard setbacks and those land owners have not raised any concern with this application at the time of writing this <i>Report</i>.</p> <p>Planning staff concur with the <i>Planning Justification Brief</i> in that functional and adequate rear yards are still being provided for units 7-8 &amp; 21. These dwellings' technical rear yard will integrate seamlessly with the future dwellings to the south and functionally be interior side yards.</p> <p>Planning staff are of the opinion the minor variances requested uphold the general policy intent of the Official Plan, specifically those of the East Fonthill Secondary Plan and the associated Urban Design Guidelines.</p>
4. The variance maintains the general intent and purpose of the Zoning By-law.	<p>The intent of the minimum 3 m side yard (abutting a street) is to allow for a strong relationship between the public-private interface, while still maintaining a suitable buffer between the sidewalk, travelled roadway and private structures for the dwelling's privacy and serviceability of the dwelling exterior without interrupting the public space (pathway users).</p> <p>Reducing the rear yard setback for units 7-8 &amp; 21 is in keeping with the Zoning By-law's purpose, intent and is objectively technical in nature due to the overall lotting geometry and better connected nature with the future development to the south. The original site-specific Zoning By-law unfortunately did not envision the subdivision block connecting southward. Although, it can be challenging to calibrate accurate zoning provisions for private block developments where the development plans are not fully understood and can change in the future. Ultimately, the technical rear yard for these dwellings will functionally serve as their individual side yards and this is not inherently a problem and maintains the Zoning By-laws objective as a sizeable amenity area is still provided for each unit.</p> <p>The zoning basis for requiring certain sized drive aisle widths is to ensure safe and functional passage for larger service</p>

	<p>vehicles, fire trucks and domestic automobiles. The minimum aisle width if also complemented by a maximum drive aisle width standard to ensure land is not wasted, causing unnecessary stormwater runoff and distorting the desirable '<i>place-making</i>' sought between building walls which help form a comfortable urban environment. Town staff are of the opinion the reduce drive aisle width maintains the purpose and intent of the Zoning By-law.</p> <p>The intent of the deck encroachment maximums was to allow for some design flexibility by allowing outdoor recreational amenity spaces to be incorporated into the principle dwellings but without sacrificing the rear yard open space. Considering the lack of privacy concern, enhanced rear yard amenity space in conjunction with the applicant's preferred building footprints, and lack of negative impact on any sensitive natural heritage features or drainage, Planning staff consider the Zoning By-law's purpose and intent maintained.</p> <p>Overall, Planning staff are of the opinion the requested zoning relief individually and collectively maintain the intent and purpose of the site-specific Zoning By-law.</p>
--	--

### Agency & Public Comments

On February 10, 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 Peninsula Conservation Authority (March 3, 2021)
  - No objections.
- Public Works Department (March 2, 2021)
  - No comments.

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

## Planning Staff Comments

The subject lands are located on the south side of Walker Road, lying west of Rice Road with additional frontage on Rice Road. The property is surrounded by single detached residential lands to the north, agricultural / rural residential to the east, vacant medium density residential to the south and *Significant Woodlands* to the west.

Planning staff have reviewed the *Justification Brief* (dated October, 2020) prepared by Upper Canada Consultants, submitted with the application.

The minor variance application is a response to the desire for making a more efficient Site Plan layout, increasing the volume of housing supply, and improving the usability of the rear yard amenity areas for several dwellings. Some of the zoning relief being proposed will also enhance the public realm through better streetscaping and urban design standards such as narrowing the drive aisle width and reducing the exterior side yard along Rice Road. These measures help narrow the carriageway keeping vehicle speeds calmer, inducing peripheral *edge friction* and foster a stronger *sense of place* through a more compact built form street enclosure.

In Planning staff's opinion, the zoning relief maintains adequate landscaped open space, stormwater drainage conveyance, neighbouring privacy levels and does not negatively impact sensitive *key natural heritage features*. The proposal also conforms to the East Fonthill Secondary Plan policies and associated Urban Design Guidelines.

Planning staff are of the opinion that the proposal applies current planning and development principles dealing with appropriate *greenfield* development, making efficient use of the designated urban area lands, providing design flexibility where suitable to do so. The proposed minor variances should not negatively impact the surrounding neighbourhood 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 A16/2021P **be approved**.

Prepared by,



Curtis Thompson, B.URPI

Planner

Approved by,



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

## **Memorandum**

### **Public Works Department - Engineering**

DATE: March 2, 2021  
TO: Curtis Thompson, Planner  
CC: Nancy J. Bozzato , Clerk; Holly Willford, Deputy Clerk; Jason Marr, Director of Public Works  
FROM: Xenia Pasiecznik, Engineering Technologist  
RE: File A16/2021P  
Block 38 on 59M-476 (Part 1 on sketch)

Public Works has completed a review of the minor variance application A16/2021P for relief of Pelham Zoning By-Law 1136(1987), as amended. The application is made to seek relief from the following:

- Section 30 (Exemptions) No. 269 – Section 16.4 (e) “Minimum Side Yard” – to permit a minimum side yard of 2.3m whereas the by-law requires 3m;
- Section 30 (Exemptions) No. 269 – Section 16.4 (f) “Minimum Rear Yard” – to permit a minimum rear yard of 2.3m (Units 8-7 and 21) whereas the by-law requires 6m;
- Section 6.16 (d) (i) “Ingress and Egress – Minimum 2-way Drive Aisle Width” – to permit a minimum private driveway (condominium road) for ingress and egress of 7.0m whereas the by-law requires 7.5m;
- Section 6.35 (c) “Yard Encroachments – Unenclosed Porches, Balconies, Steps or Patios” – to permit a deck encroachment of 3m whereas the by-law allows 1.5m.

Public Works has no comments.

**From:** [Nicholas Godfrey](#)  
**To:** [Sarah Leach](#)  
**Subject:** RE: Committee of Adjustment Notice of Hearing - March 16, 2021  
**Date:** Wednesday, March 3, 2021 4:21:37 PM

---

Hello,

Based on prior submitted comments, the NPCA have no objections to A16/2021P – Block 38, Plan 59M-476 & Brief or B15/2021P – 1304 Rice Road.

Best,

**Nicholas Godfrey, M.A.**

**Watershed Planner**

Niagara Peninsula Conservation Authority (NPCA)

250 Thorold Road West, 3<sup>rd</sup> Floor, Welland, ON, L3C 3W2

905-788-3135, ext. 278

[ngodfrey@npca.ca](mailto:ngodfrey@npca.ca)

[www.npca.ca](http://www.npca.ca)

Due to the COVID-19 pandemic, the NPCA has taken measures to protect staff and public while providing continuity of services. The NPCA main office is open by appointment only with limited staff, please refer to the [Staff Directory](#) and reach out to the staff member you wish to speak or meet with directly.

Updates regarding NPCA operations and activities can be found at [Get Involved NPCA Portal](#), or on social media at [facebook.com/NPCAOntario](https://facebook.com/NPCAOntario) & [twitter.com/NPCA\\_Ontario](https://twitter.com/NPCA_Ontario).

For more information on Permits, Planning and Forestry please go to the Permits & Planning webpage at <https://npca.ca/administration/permits>.

For mapping on features regulated by the NPCA please go to our GIS webpage at <https://gis-npca-camaps.opendata.arcgis.com/> and utilize our Watershed Explorer App or GIS viewer.

To send NPCA staff information regarding a potential violation of Ontario Regulation 155/06 please go to the NPCA Enforcement and Compliance webpage at <https://npca.ca/administration/enforcement-compliance>.

---

**From:** Sarah Leach <SLeach@pelham.ca>

**Sent:** February 10, 2021 9:34 AM

**To:** Development Planning Applications <devtplanningapplications@niagararegion.ca>; Amy.Shanks@niagararegion.ca; rowcentre@bell.ca; Nicholas Godfrey <ngodfrey@npca.ca>; Sarah Mastroianni <smastroianni@npca.ca>

**Subject:** Committee of Adjustment Notice of Hearing - March 16, 2021

Good afternoon,

Attached, please find the notice of hearing for file(s)

- A16/2021P – Block 38, Plan 59M-476 & Brief
- B15/2021P – 1304 Rice Road

Fees for B15/2021 were paid online.

Thank you,  
Sarah



**Sarah Leach, BA.**

Administrative Assistant to the Clerk

Town of Pelham

T: 905-892-2607 x322 | E: sleach@pelham.ca

20 Pelham Town Square | PO Box 400 | Fonthill, ON | L0S 1E0

---

#### TOWN OF PELHAM CONFIDENTIALITY NOTICE

The information contained in this communication, including any attachments, may be confidential and is intended only for the use of the recipient(s) named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, disclosure, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please re-send this communication to the sender and permanently delete the original and any copy of it from your computer system. Thank you.

The information contained in this communication, including any attachment(s), may be confidential, is intended only for the use of the recipient(s) named above. If the reader of this message is not the intended recipient, you are hereby notified that any disclosure of this communication, or any of its contents, is prohibited. If you have received this communication in error, please notify the sender and permanently delete the original and any copy from your computer system. Thank-you. Niagara Peninsula Conservation Authority.



# **SAFFRON VALLEY**

## **TOWN OF PELHAM**

### **APPLICATIONS FOR MINOR VARIANCE AND EASEMENT**

**MINOR VARIANCE FILE NO. A16-2021P**  
**CONSENT APPLICATION NO. B15-2021P**

**Craig Rohe, MCIP, RPP**  
**Senior Planner**  
**Upper Canada Consultants**



**UPPER CANADA  
CONSULTANTS**  
ENGINEERS / PLANNERS



# Saffron Valley







## **Overview of Applications**

### **Saffron Valley Phase 1 (A16-021P)**

- Block 38 of Plan 59M-476
- Variances to support layout, access and amenity.
- In Site Plan review process, currently.
- Draft Plan of Vacant Land Condominium Approval pending.

### **Saffron Valley Phase 2 (B15-2021P)**

- 1304 Rice Road
- Received approval of Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Vacant Land Condominium.
- To be integrated as a second Phase of the Saffron Valley development with shared services and roadway connections<sup>60</sup>

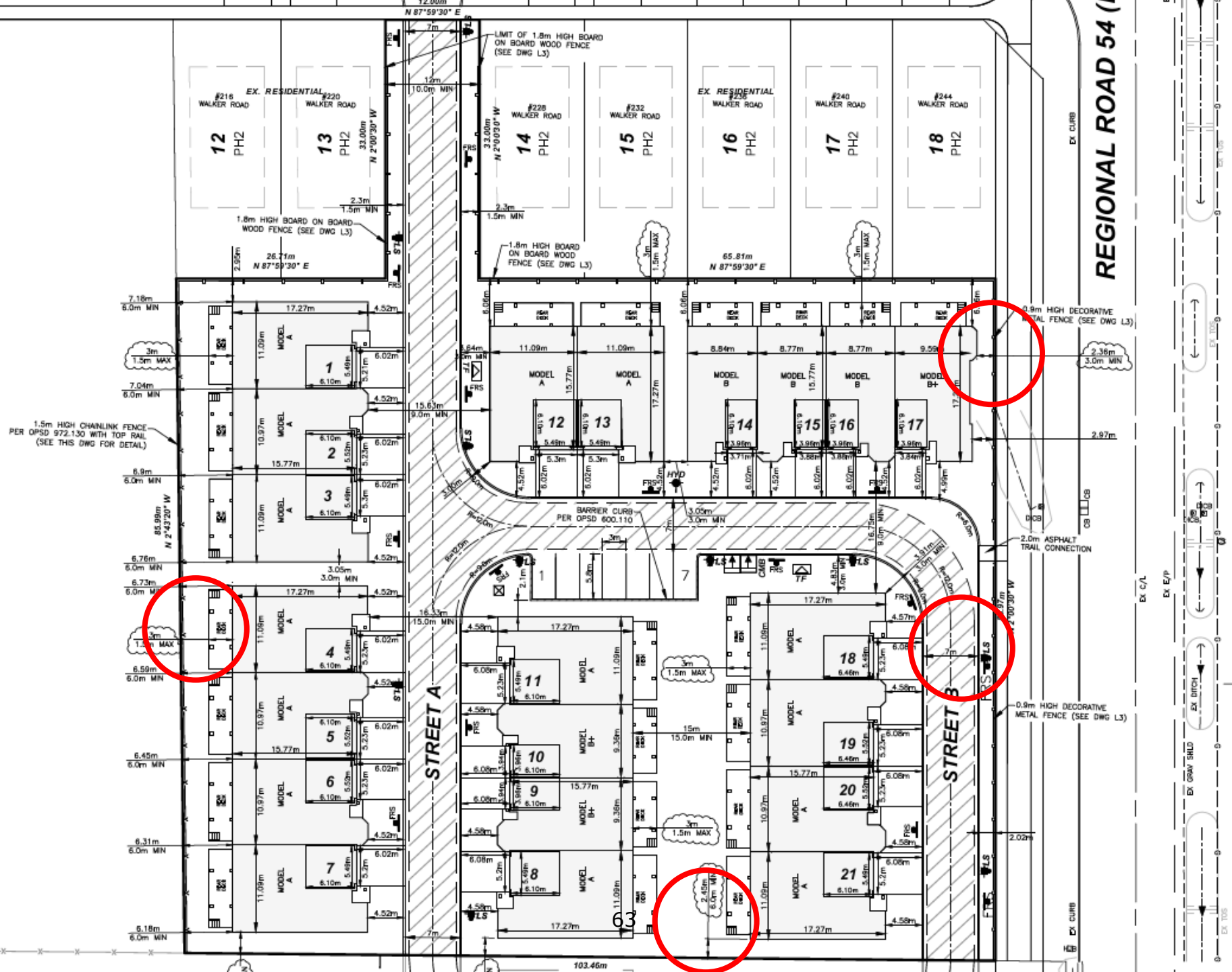




## Application A16-2021P

### Requested Minor Variances:

1. *To permit a minimum side yard of 2.3m whereas the by-law requires 3m;*
2. *To permit a minimum rear yard of 2.3m (Units 8-7 and 21) whereas the by-law requires 6.0m.*
3. *To permit a minimum private driveway (condominium road) for ingress and egress of 7.0m whereas the by-law requires 7.5m.*
4. *To permit a deck encroachment of 3.0m whereas the by-law allows 1.5m.*





## Justification of the Variances

- Setback relief along Rice Road results in consistent setback with approved Zoning for Phase 2. There is also a 6 metre municipal trail block between the lot line and Rice Road.
- Setback relief along Southern Lot Line (rear yard) is technical as the development on adjacent lands will emulate the same side yard condition.
- Increase in deck projection allows for functional amenity space. Sufficient outdoor amenity yard remains provided with no impact on common element.
- Road width is consistent with other approved developments within the larger Saffron Community. No impact on road safety. No objection through site plan review.





## **Application B15-2021P**

Requested Easements, to the benefit of Saffron Valley  
Phase 1 (Block 38)

1. *Temporary Roadway for the turning of emergency and waste collection vehicles.*
2. *Easement for sanitary and stormwater outlets to Rice Road.*







## Effect of Easements

*Temporary Roadway for the turning of emergency and waste collection vehicles.*

- *Will be released upon completion of Saffron Valley Phase 2 (1304 Rice Road), as the through street network will be established.*

*Easement for sanitary and stormwater outlets to Rice Road.*

- *Will remain in perpetuity. Phase 2 will also tie into the service outlets.*

March 16, 2021

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

**Re: Consent Application B15-2021P**  
**1304 Rice Road, Pelham**  
Part of former Thorold Township Lot 171, now Pelham  
**Roll No. 2732 030 020 07200**

The subject parcel, shown as Parts 2, 3 and 4 on the attached sketch, have a combined area of 2,274.4 m<sup>2</sup> with Part 4 having a frontage of 56.72 m on the west side of Rice Road (Regional Road 54), lying north of Merritt Road, legally described above, in the Town of Pelham.

Application is made for consent to convey a perpetual easement over Parts 3 – 4, in favour of Part 1 for sanitary and stormwater services and consent to convey a temporary easement over Parts 2 – 3, in favour of Part 1 for temporary driveway access. Parts 2 – 5 will be retained for future residential development

### **Applicable Planning Policies**

#### Planning Act (Consolidated July 2016)

Section 51 (24) states that when considering the division of land, regard shall be had to the health, safety, convenience, accessibility and welfare of the present and future inhabitants of the municipality and among other things to,

- a) The development's effect on provincial matters of interest;
- b) Whether the proposed subdivision is premature or in the public interest;
- c) Whether the plan conforms to the Official Plan and adjacent plans of subdivisions, if any
- d) The suitability of the land for such purposes;
- f) The dimensions and shapes of the proposed lots;
- h) Conservation of natural resources and flood control;
- i) The adequacy of utilities and municipal services;
- j) The adequacy of school sites

Section 53 (1) states a land owner may apply for a consent and the council may, subject to this section, give a consent if satisfied that a plan of subdivision is not necessary for the proper and orderly development of the municipality.

The proposed consent upholds Provincial interest by making more efficient use of finite urban land by allowing the separate landowners to integrate and share transportation, sanitary and stormwater infrastructure between two individual developments on adjacent lands.

#### 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 ‘Settlement Area’ according to the PPS. Policy 1.1.3.1 states that settlement areas shall be the focus of growth and development.

Policy 1.1.3.4 states appropriate development standards should be promoted which facilitate *intensification, redevelopment* and compact form, while avoiding or mitigating risks to public health and safety.

The proposed development seeks to convey a perpetual easement for sanitary and stormwater infrastructure, as well as a temporary vehicle access which help reduce the amount of urban land wasted for individually considered development projects built in isolation. This consent application is an acceptable form of *development* which should not adversely impact the Provincial interests, public health, safety or the quality of the human environment. Planning staff are of the opinion the proposed consent is consistent with the PPS.

#### 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 'Settlement Area' according to the Growth Plan. Guiding principles regarding how land is developed:

- Support the achievement of *complete communities* to meet people's needs through an entire lifetime.
- Prioritize *intensification* and higher densities to make efficient use of land and *infrastructure*.
- Support a range and mix of housing options, including second units and *affordable* housing, to serve all sizes, incomes, and ages of households.
- Provide for different approaches to manage growth that recognize the diversity of communities in the GGH.
- Integrate climate change considerations into planning and managing growth.

Policy 2.2.1 Managing Growth – 2. Forecasted growth to the horizon of this Plan will be allocated based on the following:

- a) the vast majority of growth will be directed to *settlement areas* that:
  - i. have a *delineated built boundary*;
  - ii. have existing municipal water / wastewater systems; and
  - iii. can support the achievement of complete communities.

The proposed conveyance will help facilitate the achieve of a *complete community* by providing new residential housing opportunities under different (condominium) ownership, but with the benefit of shared infrastructure. The proposed easement for driveway access is temporary until 1304 Rice Road is built as a separate block townhouse development.

For these reasons, Town Planning staff are of the opinion the proposed development conforms to the Growth Plan.

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

The Regional Official Plan designates the subject land as 'Designated Greenfield Area' within the Urban Area Boundary.

Policy 4.G.6.2 indicates 'Urban Areas' will be the focus for accommodating the Region's growth and development.

Policy 4.C.5 states *Designated Greenfield Areas* will be planned as compact, complete communities by:

- a) Where permitted by scale, accommodating a range of land uses.
- b) Where limited by scale or configuration, making a significant contribution to the growth

of the respective *Urban Area*.

- c) Providing opportunities for integrated, mixed land uses.
- e) Ensuring that Greenfield development is sequential, orderly and contiguous with existing built-up areas.

#### 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 'Secondary Plan Area' within the Fonthill Settlement Area. More specifically, the East Fonthill Secondary Plan designates the lands as 'EF – Low Density Residential', but was recently amended by Council to 'EF – Medium Density Residential' under By-law No. 4318 (2021) via Official Plan Amendment file OP-AM-02-2020. This approval is currently within the statutory appeal period under the *Planning Act* before it can be declared permanent.

Policy B1.7.3.1 (East Fonthill) Development Objectives – states that the following private (and public) development objectives will be implemented by the mechanisms in the Official Plan, the implementing Zoning and Site Plan Approvals. The East Fonthill development objectives (that closely relate to this development) are:

- a) To require that both the intensification and *greenfield* components of the community achieve a minimum gross density of 50 persons and jobs combined per hectare;
- k) To develop a land use pattern and transportation system that supports motorized vehicular traffic, transit, cyclists and pedestrians and provides alternate transportation routes to most destinations;

The proposed consent will help facilitate new residential development to on both Block 38 of Saffron Meadows Phase 2 and 1304 Rice Road. The proposal will also help avoid the wasteful creation of redundant transportation infrastructure and underground services, thus, helping contribute towards the achievement of density targets and a *complete community*.

Policy D5.2.1 states that for any consent application, the Committee of Adjustment shall be satisfied that (among other things) the proposed lot:

- a) Fronts on and will be directly accessed by a public road;
  - ✓ Unchanged.
- b) Will not cause a traffic hazard;
  - ✓ No issue. The proposed consent actually helps facilitate the transportation connectivity between the properties which is desirable.

- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
  - ✓ Unchanged.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
  - ✓ Unchanged.
- e) Will not have a negative impact on the drainage patterns in the area;
  - ✓ No concern.
- f) Will not affect the developability of the remainder of the lands, if they are designated for development by this Plan;
  - ✓ The proposed consent will not alter lot lines.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
  - ✓ No issue.
- h) Conforms with Regional lot creation policy as articulated in the Regional Official Plan.
  - ✓ No issue from Region in accordance with Memorandum of Understanding.
- i) Complies with the appropriate Provincial Minimum Distance Separation Formulae, where applicable.
  - ✓ Not applicable.

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

The subject lands have recently been rezoned from 'A' (Agricultural) to a site-specific 'RM1-300' (Residential Multiple One – 300), and 'OS-273' (Open Space – 273) pursuant to By-law No. 4317 (2021) which amends Schedule 'A5' of the Zoning By-law. The permitted uses within the RM1-300 zone include block townhouse dwellings and the OS-273 zone is for environmental protection, which restricts development broadly.

**Agency & Public Comments**

On February 10, 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 Peninsula Conservation Authority (March 3, 2021)
  - No objections.
- Building Department (January 20, 2021)
  - The existing dwelling noted on the Consent Sketch was removed in 2020 as per a closed Demolition Permit.

- Public Works Department (December 18, 2020)
  - See conditions.
  - The applicant will be responsible for all costs associated with the temporary access and reinstatement following completion.

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

### Planning Staff Comments

The subject lands are located on the west side of Rice Road (Regional Road 54), between Walker Road (to the north) & Merritt Road (to the south). The property is surrounded by:

- North – Low / medium density residential uses
- East – Agricultural / rural residential uses
- South – *Provincially Significant Wetland / Significant Woodlands*
- West – *Provincially Significant Wetland / Significant Woodlands*

The subjects lands (Parts 2 – 4) including Part 5 constitute 1304 Rice Road which has recently received Council approval for a Draft Plan of vacant land Condominium, Official Plan Amendment and Zoning By-law Amendment. All three (3) applications are currently within their statutory appeal periods under the *Planning Act* due to lapse on the 15<sup>th</sup> of March 2021.

The benefitting lands to the north (Part 1), are currently undergoing the technical review for Site Plan Approval, as well as sorting out some minor zoning issues under a Minor Variance application being heard this evening (file A16-2021P). The permanent easement will provide for integrated shared servicing between the two developments proposed on separate land holdings which is more economical and is supported by Town and Regional Public Works staff.

In Planning staff's opinion, the application is consistent with the PPS and conforms to Provincial, Regional, and local plans. The proposal allows for a better connected and highly integrated condominium developments under separate condominium ownership, whereas condominiums tend to be developed as isolated enclaves at the expense of the larger transportation network.

Given this analysis, Planning staff recommend that consent file B15-2021P **be approved** subject to the following conditions:

**THAT** the applicant

- Confirm no existing services cross the lot lines, to the satisfaction of the Director of Public Works, or designate.



- Provide the Secretary-Treasurer with a registerable legal description of the subject parcel, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.
- Provide the final certification fee of \$399, payable to the Treasurer, Town of Pelham, be submitted to the Secretary-Treasurer. All costs associated with fulfilling conditions of consent shall be borne by the applicant.

Prepared by,



Curtis Thompson, B.URPI  
Planner

Approved by,



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



---

## **Memorandum**

### **Public Works Department - Engineering**

DATE: March 1, 2021

TO: Curtis Thompson, Planner

CC: Nancy J. Bozzato, Clerk; Holly Willford, Deputy Clerk; Jason Marr, Director of Public Works

FROM: Xenia Pasiecznik, Engineering Technologist

RE: File B15/2021P  
1304 Rice Road

---

We have completed the review of the consent application B15/2021P for consent to convey an easement in perpetuity over Parts 3 and 4, to the benefit of Part 1 for permanent sanitary and storm water services and consent to convey a temporary easement over Parts 2 and 3, to the benefit of Part 1 for temporary turning access. Parts 2, 3, 4 and 5 are to be retained for future residential development.

Upon this review, Public Works has the following comments;

1. That the applicant confirms no existing services branch from or through the proposed lots to other lands.
2. That the applicant shall bear all costs associated with the works for the turning access and reinstatement of the lands after completion.

**From:** [Nicholas Godfrey](#)  
**To:** [Sarah Leach](#)  
**Subject:** RE: Committee of Adjustment Notice of Hearing - March 16, 2021  
**Date:** Wednesday, March 3, 2021 4:21:37 PM

---

Hello,

Based on prior submitted comments, the NPCA have no objections to A16/2021P – Block 38, Plan 59M-476 & Brief or B15/2021P – 1304 Rice Road.

Best,

**Nicholas Godfrey, M.A.**  
**Watershed Planner**  
Niagara Peninsula Conservation Authority (NPCA)  
250 Thorold Road West, 3<sup>rd</sup> Floor, Welland, ON, L3C 3W2  
905-788-3135, ext. 278  
[ngodfrey@npca.ca](mailto:ngodfrey@npca.ca)  
[www.npca.ca](http://www.npca.ca)

Due to the COVID-19 pandemic, the NPCA has taken measures to protect staff and public while providing continuity of services. The NPCA main office is open by appointment only with limited staff, please refer to the [Staff Directory](#) and reach out to the staff member you wish to speak or meet with directly.

Updates regarding NPCA operations and activities can be found at [Get Involved NPCA Portal](#), or on social media at [facebook.com/NPCAOntario](https://facebook.com/NPCAOntario) & [twitter.com/NPCA\\_Ontario](https://twitter.com/NPCA_Ontario).

For more information on Permits, Planning and Forestry please go to the Permits & Planning webpage at <https://npca.ca/administration/permits>.

For mapping on features regulated by the NPCA please go to our GIS webpage at <https://gis-npca-camaps.opendata.arcgis.com/> and utilize our Watershed Explorer App or GIS viewer.

To send NPCA staff information regarding a potential violation of Ontario Regulation 155/06 please go to the NPCA Enforcement and Compliance webpage at <https://npca.ca/administration/enforcement-compliance>.

---

**From:** Sarah Leach <SLeach@pelham.ca>  
**Sent:** February 10, 2021 9:34 AM  
**To:** Development Planning Applications <devtplanningapplications@niagararegion.ca>; Amy.Shanks@niagararegion.ca; rowcentre@bell.ca; Nicholas Godfrey <ngodfrey@npca.ca>; Sarah Mastroianni <smastroianni@npca.ca>  
**Subject:** Committee of Adjustment Notice of Hearing - March 16, 2021

Good afternoon,

Attached, please find the notice of hearing for file(s)

- A16/2021P – Block 38, Plan 59M-476 & Brief
- B15/2021P – 1304 Rice Road

Fees for B15/2021 were paid online.

Thank you,  
Sarah



**Sarah Leach, BA.**

Administrative Assistant to the Clerk

Town of Pelham

T: 905-892-2607 x322 | E: sleach@pelham.ca

20 Pelham Town Square | PO Box 400 | Fonthill, ON | L0S 1E0

---

#### TOWN OF PELHAM CONFIDENTIALITY NOTICE

The information contained in this communication, including any attachments, may be confidential and is intended only for the use of the recipient(s) named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, disclosure, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please re-send this communication to the sender and permanently delete the original and any copy of it from your computer system. Thank you.

The information contained in this communication, including any attachment(s), may be confidential, is intended only for the use of the recipient(s) named above. If the reader of this message is not the intended recipient, you are hereby notified that any disclosure of this communication, or any of its contents, is prohibited. If you have received this communication in error, please notify the sender and permanently delete the original and any copy from your computer system. Thank-you. Niagara Peninsula Conservation Authority.



# **SAFFRON VALLEY**

## **TOWN OF PELHAM**

### **APPLICATIONS FOR MINOR VARIANCE AND EASEMENT**

**MINOR VARIANCE FILE NO. A16-2021P**  
**CONSENT APPLICATION NO. B15-2021P**

**Craig Rohe, MCIP, RPP**  
**Senior Planner**  
**Upper Canada Consultants**



**UPPER CANADA  
CONSULTANTS**  
ENGINEERS / PLANNERS



# Saffron Valley







## **Overview of Applications**

### **Saffron Valley Phase 1 (A16-021P)**

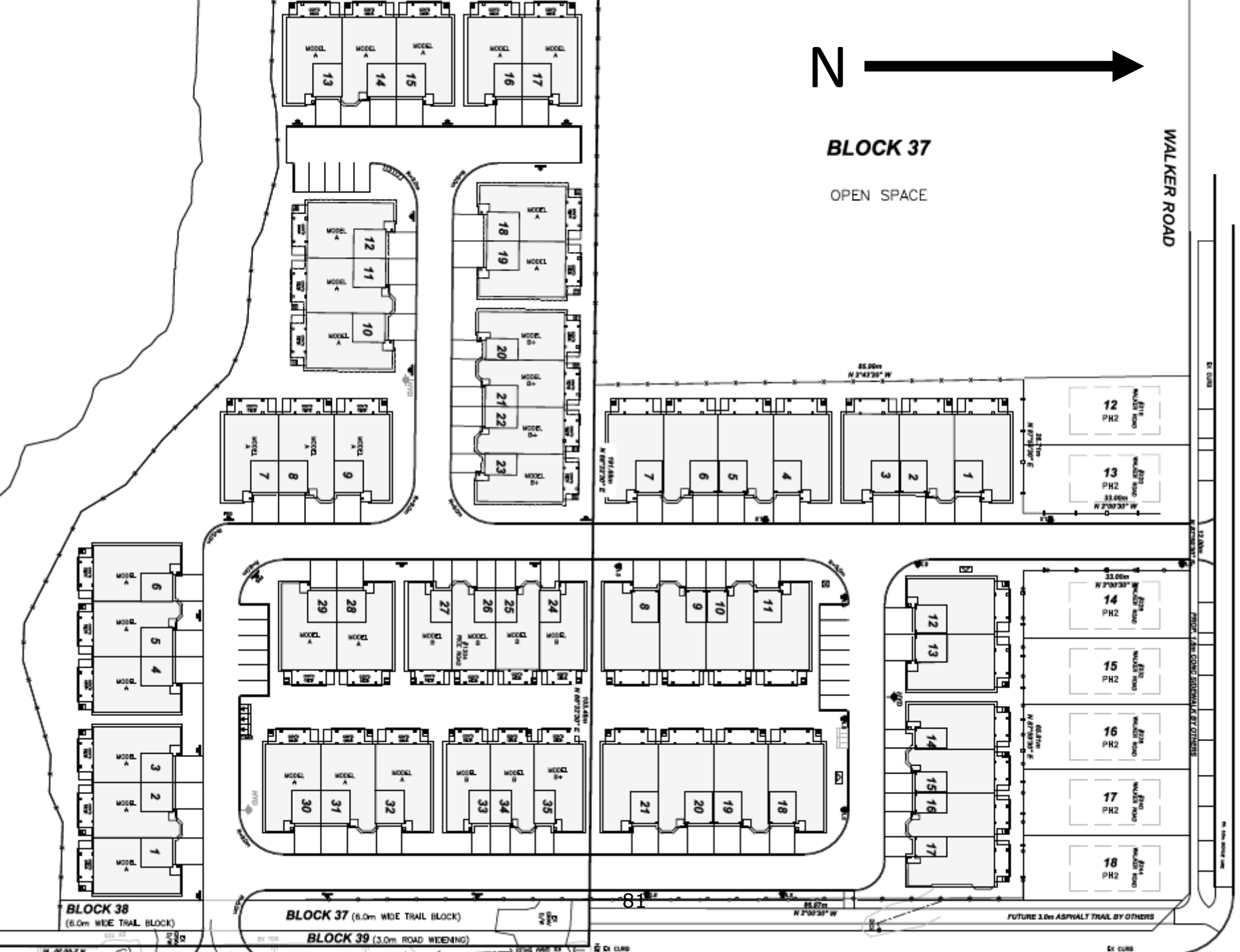
- Block 38 of Plan 59M-476
- Variances to support layout, access and amenity.
- In Site Plan review process, currently.
- Draft Plan of Vacant Land Condominium Approval pending.

### **Saffron Valley Phase 2 (B15-2021P)**

- 1304 Rice Road
- Received approval of Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Vacant Land Condominium.
- To be integrated as a second Phase of the Saffron Valley development with shared services and roadway connections<sup>80</sup>

OPEN SPACE

WALKER ROAD



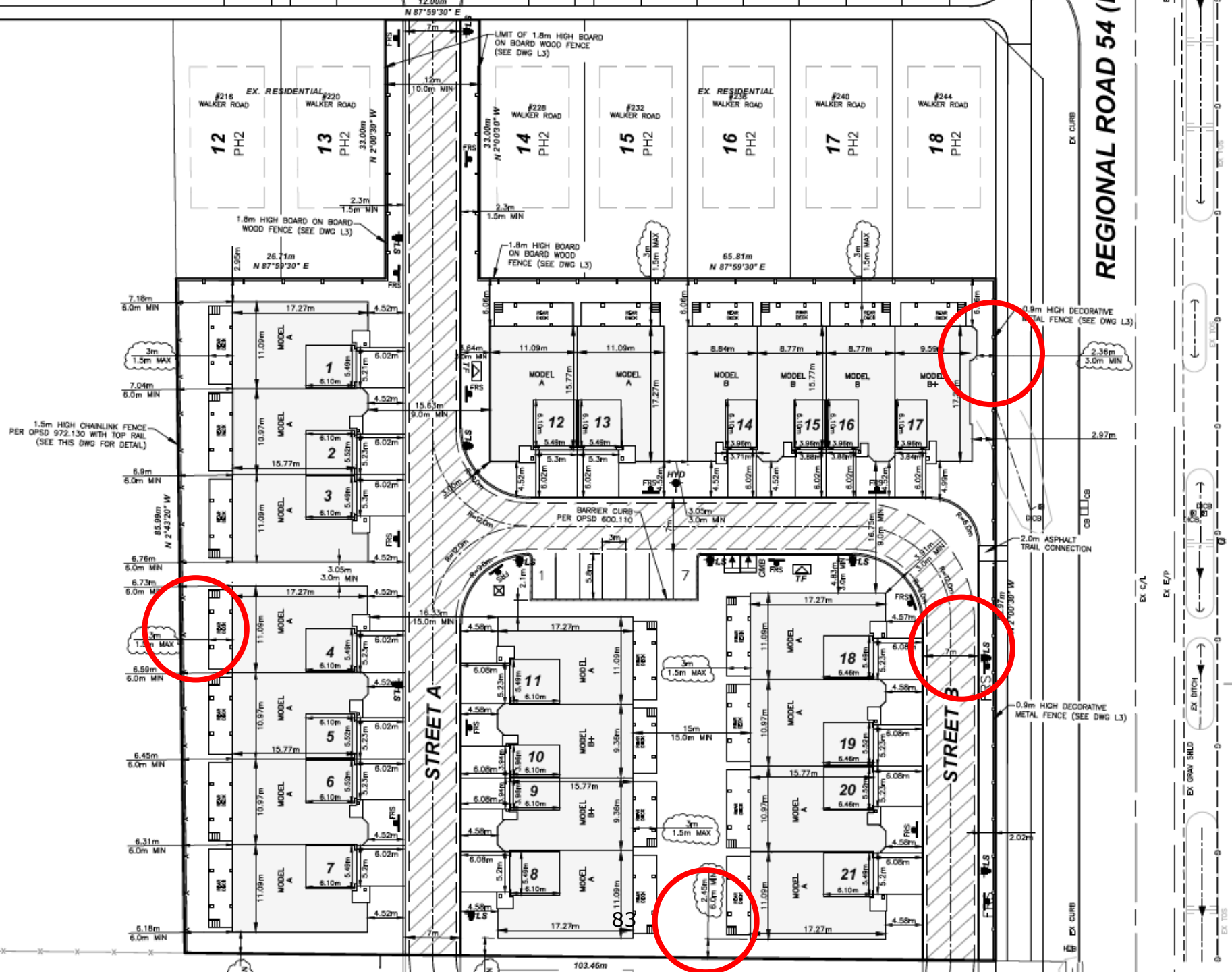


## Application A16-2021P

### Requested Minor Variances:

1. *To permit a minimum side yard of 2.3m whereas the by-law requires 3m;*
2. *To permit a minimum rear yard of 2.3m (Units 8-7 and 21) whereas the by-law requires 6.0m.*
3. *To permit a minimum private driveway (condominium road) for ingress and egress of 7.0m whereas the by-law requires 7.5m.*
4. *To permit a deck encroachment of 3.0m whereas the by-law allows 1.5m.*







## Justification of the Variances

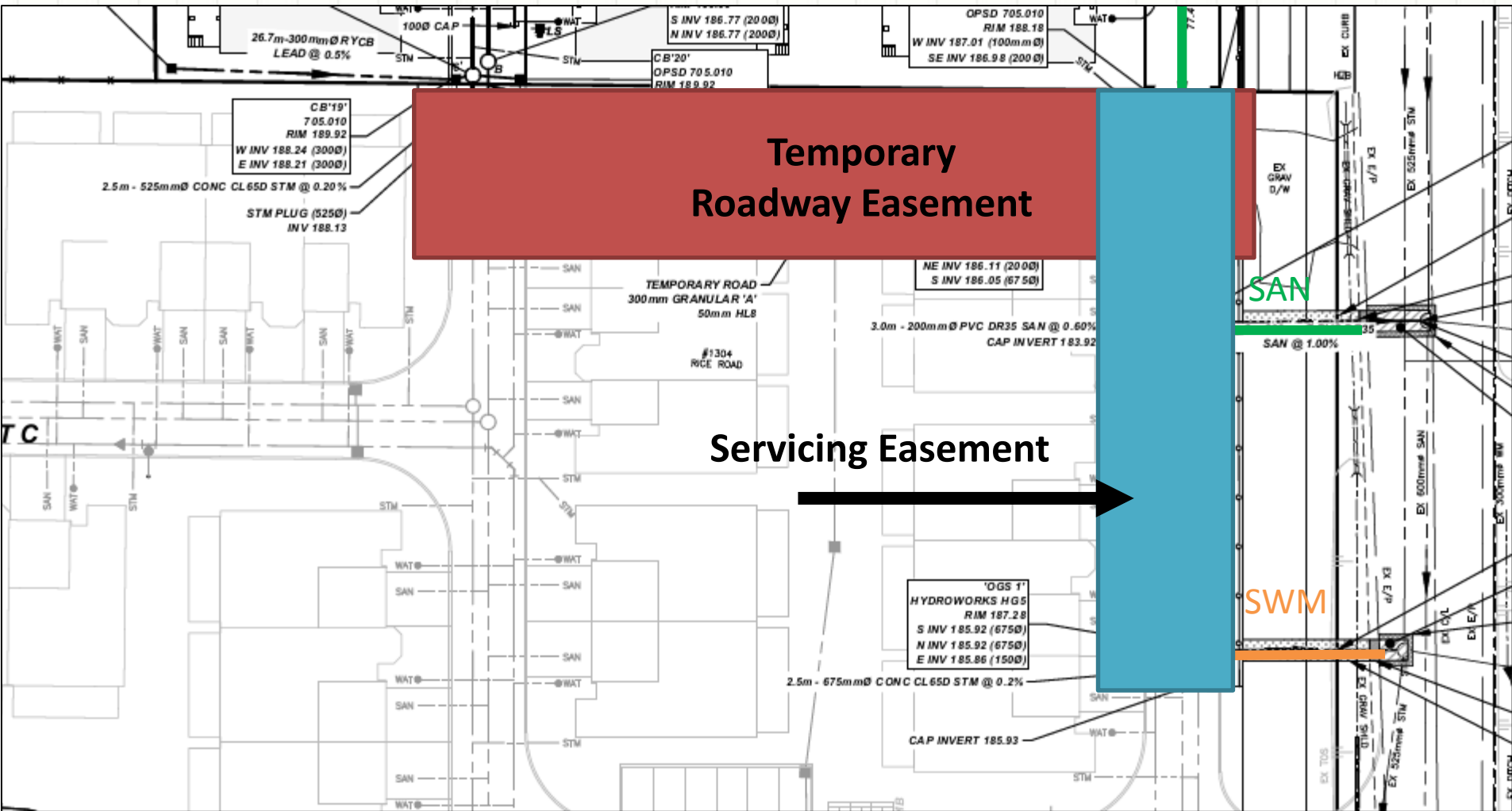
- Setback relief along Rice Road results in consistent setback with approved Zoning for Phase 2. There is also a 6 metre municipal trail block between the lot line and Rice Road.
- Setback relief along Southern Lot Line (rear yard) is technical as the development on adjacent lands will emulate the same side yard condition.
- Increase in deck projection allows for functional amenity space. Sufficient outdoor amenity yard remains provided with no impact on common element.
- Road width is consistent with other approved developments within the larger Saffron Community. No impact on road safety. No objection through site plan review.



## **Application B15-2021P**

Requested Easements, to the benefit of Saffron Valley  
Phase 1 (Block 38)

1. *Temporary Roadway for the turning of emergency and waste collection vehicles.*
2. *Easement for sanitary and stormwater outlets to Rice Road.*





## Effect of Easements

*Temporary Roadway for the turning of emergency and waste collection vehicles.*

- *Will be released upon completion of Saffron Valley Phase 2 (1304 Rice Road), as the through street network will be established.*

*Easement for sanitary and stormwater outlets to Rice Road.*

- *Will remain in perpetuity. Phase 2 will also tie into the service outlets.*