

Planning and Development Services

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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

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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, or Britney Fricke, MCIP, RPP, Senior Development Planner at 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

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