

April 7, 2021

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

**Re: Minor Variance Application A18/2021P**  
**879 Foss Road, Pelham**  
Concession 10, Part of Lot 17  
**Roll No. 2732 010 016 15100**

The subject land is located on the south side of Canboro Road, lying east of Victoria Avenue, legally described above, and known locally as 1010 Canboro 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 7.3 (e) "Minimum Rear Yard"** seeking 11.5 m, whereas 15 m is required.
- ii. **Section 7.3 (g) (i) "Supplementary Setback Distances"** seeking a 36 m distance from an adjacent dwelling, whereas 45 m is required.

The proposal seeks to construct a  $\pm 3,060 \text{ m}^2$  easterly greenhouse addition.

### 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 'Prime Agricultural Area' 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). The Ministry of Agricultural, Food & Rural Affairs, and Town of Pelham Zoning By-law define greenhouses as agricultural uses.

#### Greenbelt Plan (2017)

The subject land is designated 'Tender Fruit & Grape Lands' (*Specialty Crop Area*) within the Greenbelt Plan's *Protected Countryside*.

Section 3.1.2 (Specialty Crop Area Policies) states that for lands falling within *specialty crop areas* of the *Protected Countryside* all types, sizes and intensities of agricultural uses and *normal farm practices* shall be promoted and protected.

Section 3.1.2.5 states that where *agricultural uses* and non-agricultural uses interface, land use compatibility shall be achieved by avoiding or, where avoidance is not possible, minimizing and mitigating adverse impacts on the *Agricultural System*, based on Provincial guidance.

The proposed greenhouse expansion will serve the VanZanten Greenhouses agricultural operation by increasing and / or diversifying its product yield while ensuring adequate spatial separation is maintained from adjacent residential dwellings. No exhaust ventilation is proposed along the eastern wall and the crops of choice are not known to expel unpleasant odours.

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

The Regional Official Plan designates the subject parcel as 'Protected Countryside' and 'Unique Agricultural Area'.

Policy 5.B.6 states that in the *Unique Agricultural Area*, the predominant use of land will be for agriculture of all types, which includes greenhouse bedding plants.

Regional Planning staff provided comments on this application and offered no objections as their matters of Provincial and Regional concern will be addressed through the concurrent Site Plan Control application.

#### 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 parcel as ‘Specialty Agricultural’. The purpose of this designation is to implement the Greenbelt Plan and recognize the importance of specialty croplands.

Policy A2.1.2 states the objective of the Official Plan is to make planning decisions that consider the health and integrity of the broader landscape as well as long term cumulative impacts on the ecosystem. Planning decisions should also restrict and regulate land uses which could impact the water quality and hydrological and hydrogeological characteristics of watercourses, aquifers and wetlands.

Policy B2.2.8 (Greenhouses in Specialty Agricultural designation) – states that greenhouses shall be subject to a Zoning By-law Amendment where:

- a) The lot area is less than 3 hectares; or
  - Lot area is 6.2 ha
- b) The total lot coverage of the greenhouse exceeds 30%; or
  - Lot coverage is  $\pm$  20%
- c) An accessory retail component is proposed; or
  - N/A
- d) Over 10,000 liters of water per day is required to sustain the greenhouse operation.
  - N/A
  - The existing pond is currently supplied by roof rainwater and is used for irrigation. This helps minimize the development’s impact on the potable groundwater supply.

A concurrent Site Plan Approval application (file SP-02-2021) is being undertaken at this time in response to policy B2.2.8 and the Town’s Site Plan Control By-law.

Based on the proposed development submission, a Zoning By-law Amendment is not warranted pursuant to the Specialty Agricultural policies. Planning staff are of the opinion the expansion conforms to the Official Plan and represents appropriate agricultural economic growth without causing any adverse impacts to sensitive natural heritage features, or the neighbourhood at-large.

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

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- ii. **Section 7.3 (g) (i) “Supplementary Setback Distances”** seeking a 36 m distance from an

adjacent dwelling, whereas 45 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>The reduction of the setbacks to the east are minor overall because the greenhouse expansion is relatively benign in nature. The proposed building mass and orientation should not adversely impact drainage, subject to conditions and Site Plan Approval.</p> <p>Further, the greenhouse operation relies on natural sunlight for plant growth as opposed to artificial lighting, which can be a source of light pollution. The existing eastern driveway is reserved for emergency access while the existing western driveway provides continued domestic and commercial access. No objections have been received from the neighbourhood, or the nearest dwelling at this time.</p> <p>Planning staff are of the opinion the zoning requests are minor in nature.</p>
2. The variance is desirable for the development or use of the land.	<p>The reduction of the eastern setbacks are desirable because it will allow for improved usage of the existing agricultural parcel. Of which, the eastern half has not been actively cultivated in almost 10 years (according to aerial imagery records), and the eastern greenhouse expansion will help preserve the balance of the lands which continue to be farmed.</p> <p>Allowing for the proposed zoning relief, will help avoid removal of existing cultivated farm land, avoid impacting a regulated tributary which supports the Coyle Creek subwatershed and support the local agricultural economy.</p>
3. The variance maintains the general intent and purpose of the Official Plan.	<p>The requested variances maintains the general purpose and intent of the Official Plan because it supports the existing agricultural greenhouse operation and its future economic growth. The rural community and adjacent Fenwick village character will be maintained, the greenhouse use is permitted, and no adverse impacts are anticipated</p>

	<p>regarding water quality, hydrogeology, light / odour pollution and stormwater runoff.</p> <p>The proposed expansion satisfies the local Official Plan policies as it currently undergoes the required Site Plan Approval / Agreement process and meets the exemption criteria from a Council approved Zoning By-law Amendment.</p>
4. The variance maintains the general intent and purpose of the Zoning By-law.	<p>The variances maintains the general intent of the Zoning By-law because the requested setback reductions still leave adequate space for passage, negative drainage, and spatial separation between adjacent land uses. The greenhouse operation is benign in nature as it does not rely on artificial lighting that could otherwise potentially emit undesirable light pollution to the surrounding neighbourhood. Furthermore, no exhaust ventilation is proposed along the eastern wall as per supplied building Elevation Plans. Notwithstanding, any ambient odour created from the applicant's floriculture operation is not considered culturally unpleasant or pungent.</p>

### Agency & Public Comments

On March 3<sup>rd</sup> and 30<sup>th</sup> 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. The subsequent Notice was re-circulated in order to clarify a typo.

To date, the following comments have been received:

- Niagara Peninsula Conservation Authority (March 25, 2021)
  - See attached.
  - No objections.
- Niagara Region Planning & Development Services (March 4, 2021)
  - See attached.
  - No objections, as Provincial and Regional matters will be addressed through concurrent Site Plan Control application.
- Building Department (March 29, 2021)
  - Building permit(s) are required.
- Public Works Department (March 30, 2021)
  - See conditions.

- Should the applicant require a new driveway access, they must obtain approval through a Driveway Entrance & Culvert Permit issued through the Public Works department prior to any works within the Town right-of-way.

Several public comments were received at the time of this writing. All of which offered their support for the proposed greenhouse expansion at 879 Foss Road. The letters included were provided from other local greenhouse operators, a local floral distributor, the Flowers Canada (Ontario) association and some nearby residents.

### Planning Staff Comments

The subject lands are located on the northeast corner of Farr Street and Foss Road. The following land uses surround the property:

- North – *Significant Woodlands*
- East – Single detached residential
- South – Agricultural and rural residential
- West – Agricultural and rural residential

The proposed minor variance application seeks zoning relief to reduce the rear yard setback from 15 m to 11.5 m, and to reduce the setback from an adjacent dwelling from 45 m, to 36 m.

Planning staff are of the opinion that the proposal applies current planning and development principles dealing with appropriate agricultural development and making efficient use of existing agricultural land which was currently not being productively cultivated. The proposed minor variances should not negatively impact the surrounding land uses with regards to land use incompatibility, odour 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 A18/2021P **be approved** subject to the following conditions:

**THAT** the applicant

- Submit for approval, a scoped Lot Grading & Drainage Plan demonstrating that storm runoff does not negatively impact, nor rely upon neighbouring properties, to the satisfaction of the Director of Public Works, or designate.

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Prepared by,



Curtis Thompson, B.URPI  
Planner

Approved by,



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