

**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**

June 21, 2021

File No.: D.17.06.MV-21-0042

Holly Willford  
Town Clerk/Secretary-Treasurer  
Committee of Adjustment  
Town of Pelham  
20 Pelham Town Square, PO Box 400  
Fonthill, ON L0S 1E0

Dear Ms. Willford:

**Re: Regional and Provincial Comments  
Minor Variance  
Town File No.: A19/2021P  
Applicant: [REDACTED]  
Agent: Upper Canada Consultants (Matt Kernahan)  
Address: 1000 Effingham Street  
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 legalize the construction of an accessory building. The applicant is seeking a variance to permit an increase in maximum lot coverage and height for the existing structure.

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 designated as being within a Prime Agricultural Area, and more specifically within a Specialty Crop Area, in the Provincial Policy Statement (PPS); within the Protected Countryside, and designated Specialty Crop Area – Niagara Peninsula Tender Fruit and Grape Area in the Greenbelt Plan, and designated Unique Agricultural Area in the Regional Official Plan (ROP).

In addition to agricultural, agriculturally-related, and on-farm diversified uses, within the Unique Agricultural Area designation, both the Greenbelt Plan and ROP permit single

dwelling on existing lots of record, provided they were zoned for this use prior to the effective date of the Greenbelt Plan (December 16, 2004). Accessory structures and uses are also permitted within these areas, provided that new municipal services are not required, and the use does not expand into a Key Natural Heritage Feature (KNHF), Key Hydrologic Feature (KHF), or, as required under the Greenbelt Plan, their associated Vegetated Protection Zone (VPZ), unless there is no other alternative, in which case any expansion must be limited in scope, and kept within close geographical proximity to the existing structure.

The proposed variance is intended to legalize an accessory building constructed on the subject property, which is accessory to an existing single-detached dwelling. The subject property is privately serviced, and therefore new municipal services will not be required. As detailed further below, the accessory building is located within a VPZ; however, most of the subject property is identified as KNHF, KHF, or within a VPZ, and therefore there are very few alternative locations for the accessory building on the lot. Additionally, the accessory building was constructed on an existing foundation from a previous building, and is therefore located within the existing development footprint on the subject property. Accordingly, Regional staff are of the opinion that the legalizing the existing structure is consistent with the PPS, and conforms to Provincial and Regional policies, subject to the comments below.

## **Core Natural Heritage**

The subject property is impacted by the Region's Core Natural Heritage System (CNHS), consisting of the Fonthill Kame Provincially Significant Wetland Complex (PSW), Significant Woodland, and Type 2 (Important) Fish Habitat (see attached map). The property is within the Provincial Natural Heritage System (PNHS) of the Greenbelt Plan, which elevates Significant Woodland and Fish Habitat to Environmental Protection Areas, and identifies these features as KNHF and KHF. These features are subject to the natural heritage policies of the Greenbelt Plan.

Greenbelt Plan policies require the completion of a Natural Heritage Evaluation (NHE) when development and/or site alteration is proposed within 120 metres of a KNHF/KHF in the PNHS. 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, 50 metres of a Significant Woodland or 15 metres of a Type 2 Fish Habitat. Further, Greenbelt policies also require that a minimum 30 metre VPZ adjacent to KNHF/KHF, be established as natural self-sustaining vegetation. Development and/or site alteration is not permitted within a KNHF/KHF, or its VPZ.

The accessory building is located within the VPZ of the Significant Woodland. As noted previously, Greenbelt Plan policies do not permit accessory structures and uses to expand into KNHF/KHF, or their VPZ, unless there is no other alternative, in which case any expansion must be limited in scope and kept within close geographical proximity to the existing structure. Regional Environmental Planning Staff note that most of the subject property is identified as KNHF, KHF, or within a VPZ, and therefore there are

very few alternative locations for the accessory building on the lot. Additionally, the accessory building was constructed on an existing foundation from a previous building, and is therefore located within the existing development footprint. Given the scope, nature and location of the proposed development, staff are supportive of waiving the requirement for a NHE/EIS, and conclude that the proposed development fulfills the requirements under the Greenbelt Plan for the construction of an accessory structure within a VPZ.

The VPZ lands adjacent to the accessory building are used as horse pasture, which is considered to be an agricultural use under the Greenbelt Plan. As stated previously, the Greenbelt Plan typically requires VPZ lands to be established as natural self-sustaining vegetation; however, agricultural uses are exempt from this requirement. Therefore, Regional environmental planning staff will not require the VPZ lands to be established as natural self-sustaining vegetation as a condition of this application.

In conclusion, Regional Environmental Planning staff are satisfied that the proposed development is consistent with Provincial and Regional environmental policies, and offer no objections.

## **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 and site alteration are not permitted on lands containing archaeological resources or areas of archaeological potential, unless significant archaeological resources have been conserved.

Based on the Ministry of Heritage, Sport, Tourism and Culture Industries' (MHSTCI) Criteria for Evaluating Archaeological Potential, the subject property exhibits high potential for the discovery of archaeological resources due to its proximity (within 300 metres) to several past and present watercourses, as well as its location along a historic transportation route (Effingham Street). The accessory building has been constructed on an existing foundation, and there is no further site alteration proposed as part of this development. Therefore, an archeological assessment is not required.

## **Private Servicing**

Regional records indicate that a sewage system, consisting of a filter bed (Class 4 system), was installed on the subject property in 2006 with approval from the Niagara Region Public Health Department. This existing septic system is located east of the dwelling on the subject property, and had no visible defects at the time of Regional Private Sewage System (PSS) staff's inspection. The constructed detached accessory building meets the required setbacks to the existing septic system, as per Ontario Building Code (OBC) requirements. No living space, plumbing fixtures or bedrooms are permitted in the constructed detached accessory building. The subject property also has usable area for a replacement system in the future if one is required.

June 21, 2021

---

Therefore, based the information submitted with the minor variance application, PSS staff have no objections to the constructed detached accessory building, provided no plumbing or living space is included within it.

## Conclusion

In conclusion, Regional staff have no objection to the minor variance application from a Provincial or Regional perspective, provided the accessory building will not contain any plumbing or living spaces, and subject to any local concerns.

Provided these conditions are addressed, the variance is consistent with the Provincial Policy Statement (PPS), and conforms to Provincial Plans and the Regional Official Plan (ROP) 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, MCIP, RPP, Senior Development Planner, Niagara Region  
Lori Karlewicz, Planning Ecologist, Niagara Region  
Justin Noort, C.E.T., Private Sewage System Inspector, Niagara Region  
Kenny Ng, Planner, Town of Pelham

Appendix: Core Natural Heritage System Mapping

## Appendix: Core Natural Heritage System Mapping

