

September 1, 2021

Ms. Holly Willford, Secretary Treasurer  
Committee of Adjustment  
Town of Pelham  
Fonthill, ON L0S 1E0

**Re: Minor Variance Application A34/2021P**

**345 Highway 20 West, Pelham**

Part of Lot 6 and Part of the Road Allowance between Lots 6 and 7, Concession 7 being  
Parts 1 and 2 on 59R-11215

**Roll No. 2732 020 013 01300**

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The subject land is located on the north side of Highway 20 West lying west of Effingham Street, legally described above, and known locally as 345 Highway 20 West in the Town of Pelham.

The subject land is zoned Agricultural (A-157) in accordance with Pelham Zoning By-law 1136(1987), as amended. The property has a site specific zoning to allow the current use as a welding business, which includes the service and sale of trailers and trailer accessories.

The Applicant is seeking permission pursuant to Section 45(2) (a) (ii) of the Planning Act to permit vehicle repairs and sales as a similar use to the existing permitted welding shop and trailer sales and service business.

**Applicable Planning Policies**

Planning Act (Consolidated July 2016)

Section 45 (2) (a) (ii) grants powers to the Committee of Adjustment where any land, on the day the Zoning By-law was passed, was lawfully used for a purpose, may permit, the use of such land for a purpose that, in the Committee's opinion, is similar to the purpose for which it was originally used or is more compatible with the uses permitted by the Zoning By-law.

Provincial Policy Statement (PPS), 2020

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development, and sets the policy foundation for regulating the development and use of land. The PPS provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment.

Section 3 of the Planning Act requires that decisions affecting planning matters “shall be consistent with” policy statements issued under the Act. The PPS recognizes the diversity of Ontario and that local context is important. Policies are outcome-oriented, and some policies provide flexibility provided that provincial interests are upheld. PPS policies represent minimum standards.

The Provincial Policy Statement (PPS) designates the subject land within the ‘Prime Agricultural Area’. ‘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, diversification of the economic base and providing opportunities for economic activities in prime agricultural areas, in accordance with policy 2.3 and conserving biodiversity.

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.

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 Town’s Heritage Master Plan also identifies this area as having composite archaeological resource potential. However, in considering that no physical alterations are proposed to the property, and that no new infrastructure is required with the similar use application, an archeological assessment is therefore not required.

Planning staff are of the opinion the requested similar use application is consistent with the PPS and promotes appropriate development standards without causing adverse impacts on the use of the subject lands or surrounding uses.

#### Greenbelt Plan (2017)

The subject parcel is designated Specialty Crop Area within the Greenbelt Plan’s Protected Countryside.

Policy 4.5 states that all existing uses and single dwellings on existing lots of record are permitted, provided they were zoned for such prior to the Greenbelt Plan coming into force. Expansions to

existing buildings and structures, accessory structures and uses and/or conversions of legally existing uses which bring the use more into conformity with this Plan are permitted as long as new municipal services are not required, and that the use does not expand into key natural heritage features or key hydrologic features or their associated vegetation protection zones, unless there is no other alternative, in which case any expansion shall be limited in scope and kept within close geographical proximity to the existing structure.

The proposed similar use permission will not result in the need for new municipal services, and will not expand into key natural heritage features or key hydrologic features or their associated vegetation protection zones, and therefore, the proposal does conform to the policies in the Greenbelt Plan.

#### 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 'Prime Agricultural Area', which is outside of an approved settlement area according to the Growth Plan. Therefore, the natural heritage system policies of the Growth Plan apply (policy 4.2.2).

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.

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 4.5.4 states that expansions to existing buildings or accessory structures which bring the use more into conformity with this Plan are permitted subject to a demonstration of the following:

- a) Notwithstanding section 4.2.2.2, new municipal services are not required; and
- b) The use does not expand into *key natural heritage features or key hydrologic features or their associated vegetation protection zones*.

The proposed similar use permission does not fragment any key natural heritage features or key hydrologic features.

Regional Official Plan (Consolidated, August 2014)

The Regional Official Plan designates the subject parcel as 'Unique Agricultural Area' as part of the Protected Countryside lands in the Greenbelt Plan.

Policy 5.B.8.3 states that in 'Unique Agricultural Areas' expansions/conversions of legally existing uses which bring the use into more conformity with the Regional Official Plan are permitted subject to the demonstration of no new municipal services being required and that the use does not expand into any key natural heritage features and key hydrological features.

The subject application is not proposing any new physical alterations to the property and the business would occupy the existing building. As such, no new municipal services are required and no expansion into key natural heritage features and key hydrological features will occur.

Regional staff are satisfied that the proposed development is consistent with Regional environmental policies, and offer no objections to the minor variance to allow the similar use. The proposed vehicle repair and sales is similar in terms of intensity of use and impacts that the existing welding shop and trailer repair and sales has on the subject land and surrounding area.

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 Town local Official Plan designates the subject land as 'Specialty Agricultural' as per Schedule 'A'.

Policy B2.2.6 (Expansion of Existing Uses) states that uses which are not permitted in the Specialty Agricultural designation but were established on or before December 16, 2004, shall be deemed to be permitted uses. Such uses may expand buildings, structures or accessory uses subject to an application to the Committee of Adjustment to expand a legal non-conforming use. In considering an application, Committee shall have regard for the following criteria:

- a) a) That the expansion does not require the provision or extension of a municipal water or sewer system; and,
- b) b) That the proposed expansion is consistent with existing use policies contained in the Natural Heritage policies of this Plan.

The proposed similar use permission to convert the existing legal non-conforming welding business to permit vehicle repairs and sales would not require the provision or extension of a municipal water or sewer system and would not conflict with any Natural Heritage policies contained in the Official Plan.

Town Planning staff are of the opinion the proposed similar use request conforms to the Official Plan.

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

The subject land is zoned 'Agricultural-157' (A-157) in accordance with Pelham Zoning By-law 1136 (1987), as amended. Permitted uses under Section 7 of the 'A' zone include (among others): Agricultural uses including greenhouses, seasonal or permanent farm help houses, one single detached dwelling, home occupations, kennels, animal hospitals, forestry and conservation uses, uses, buildings and structures accessory to any of the foregoing permitted uses, as well the site specific provision which allows for welding business which includes ancillary manufacture and sale of such things as trailers, trailer accessories and hitches.

The application is made to permit a similar use of 'vehicle repairs and sales' to the existing use.

**Agency & Public Comments**

On July 30, 2021, a notice of public hearing was circulated by the Secretary Treasurer of the Committee of Adjustment to applicable agencies, Town departments, and to all assessed property owners within 60 metres of the property's boundaries.

To date, the following comments have been received:

- Niagara Region Planning & Development Services (August 23, 2021)
  - No objections.
- Building Department (August 12, 2021)
  - No comment.

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

**Planning Staff Comments**

A pre-consultation meeting was held with the applicant(s) of the property and staff from the Town and Niagara Region Planning & Development Services on June 3, 2021 to discuss the subject

applications. A *Planning Justification Report* was submitted on behalf of the applicant by South Coast Consulting in support of the proposed development.

The subject lands are located on the north side of Highway 20 West, lying west of Effingham Street. The property is surrounded by the following:

North: Agricultural farmland

East: Commercial retailer operation

South: Farm with residence and commercial operation / vacant residential land

West: Farm with gravel pit

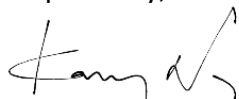
Planning staff is of the opinion that the application for similar use is in keeping with the goals and the intent of the Official Plan and the Zoning By-law. The reasoning being the proposed use is similar and compatible with the uses currently existing on the subject site and surrounding neighbourhood and its impact would not exceed what is currently existing. It is also noted that no building expansion or alteration is required to accommodate the proposed vehicle repair and sales use.

The applicant should be aware that if any further additions or site alterations are proposed in the future, they would be subject to Site Plan Approval as per the Town's Site Plan Control By-law.

In Planning staff's opinion, the application is consistent with the PPS, Provincial and Regional plans, and conforms to the general policies and intent of both the Official Plan and Zoning By-law and is appropriate for the development and use of the land. The authorization of the expansion of legal non-conforming use is not expected to generate any unreasonable negative impacts for adjacent uses or the community at large than what is currently permissible.

Given this analysis, Planning staff recommend that minor variance file A34/2021P **be approved**.

Prepared by,



Kenny Ng, B.ES  
Planner

Approved by,



Barbara Wiens, MCIP, RPP  
Director of Community Planning and  
Development