

September 29, 2021

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

**Re: Minor Variance Application A36/2021P**  
**368 Canboro Road, Pelham**  
Part of Lot 7, Concession 8  
**Roll No. 2732 020 013 09400**

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The subject land is located on the south side of Canboro Road, lying west of Effingham Street, legally described above, and known locally as 368 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 6.16(d)(iv) "Ingress and Egress – Minimum Distance Between Driveways"** – to permit a minimum distance between driveways of 3.5 metres from the western property line and 1.5 metres from the eastern property line whereas the by-law requires 7.5 metres.
- ii. **Section 7.4(c) "Maximum Lot Coverage"** – to permit a maximum lot coverage of 15% whereas the by-law allows 10%;
- iii. **Section 7.4(d) "Minimum Front Yard"** – to permit a minimum front yard of 11 metres whereas the by-law requires 13 metres; and
- i. **Section 7.4(f) "Minimum Side Yard"** – to permit a minimum side yard of 1.2 metres whereas the by-law requires 9 metres.

The proposal seeks to construct a two-storey single detached dwelling.

### **Applicable Planning Policies**

#### Planning Act (Consolidated July 2016)

Section 45 (1) states that the Committee of Adjustment may authorize minor variance provisions of the (Zoning) by-law, in respect of the land, as in its opinion is (1) minor in nature, (2) objectively desirable for the appropriate development or use of the land, and the general intent and purpose of the (3) Zoning By-law and (4) Official Plan are maintained.

#### 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). The permitted uses (among others) include: agricultural / agricultural related uses, limited residential development and home occupations.

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 also identifies this area as having composite archaeological resource potential. Given the anticipated significant ground disturbance resulting from the proposed building, the applicant must conduct a Stage 1-2 Archaeological Assessment and receive Clearance from the Ministry of Heritage, Sport, Tourism & Culture Industries as a condition of approval.

Planning staff are of the opinion the requested zoning reliefs are consistent with the PPS and promotes appropriate development standards without causing adverse impacts on the use of the lands or neighbourhood.

#### Greenbelt Plan (2017)

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

Policy 4.5.2 (Existing Uses) – states that for lands within the Protected Countryside, single dwellings are permitted on existing lots of record, provided they were zoned for such as of December 16, 2004. Municipalities are encouraged to discourage non-agricultural uses where appropriate.

The proposed dwelling does not conflict with Greenbelt Plan policy.

Regional Official Plan (Consolidated, August 2014)

The Regional Official Plan designates the subject parcel as ‘Protected Countryside’ and ‘Unique Agricultural Area’ according to Schedules A and B, respectively.

Policy 5.B.6 states that single dwellings are permitted on existing lots of record provided they were zoned for such as of December 16, 2004.

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 B2.2.1 states the purpose of the purpose of the *Specialty Agricultural* designation is to implement the Province of Ontario’s Greenbelt Plan and recognize the importance of specialty croplands in the Provincial and Regional economies.

Policy B2.2.2 states that among other uses, one single detached dwelling is permitted on existing lots of record.

Planning staff are of the opinion that the proposed redevelopment is in conformity with the Town of Pelham Official Plan and should not compromise drainage, privacy or sensitive natural heritage feature and is in keeping with the overall character of the neighbourhood subject to the demonstration of appropriate urban design and fulfillment of the conditions of approval which must be satisfied prior to applying for Building Permit.

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 6.16(d)(iv) “Ingress and Egress – Minimum Distance Between Driveways”** – to

permit a minimum distance between driveways of 3.5 metres from the western property line and 1.5 metres from the eastern property line whereas the by-law requires 7.5 metres.

- ii. **Section 7.4(c) “Maximum Lot Coverage”** – to permit a maximum lot coverage of 15% whereas the by-law allows 10%;
- iii. **Section 7.4(d) “Minimum Front Yard”** – to permit a minimum front yard of 11 metres whereas the by-law requires 13 metres; and
- iv. **Section 7.4(f) “Minimum Side Yard”** – to permit a minimum side yard of 1.2 metres whereas the by-law requires 9 metres.

The Committee of Adjustment, in accordance with 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>In considering the increase to the maximum building lot coverage to 15 %, staff is of the opinion that although the lot coverage allowed will be exceeded, the impact on the subject property and adjacent properties is minimal. The variance is minor overall as the subject lot has an overall area of 2172.75 m<sup>2</sup>, with the proposed building area of 242 m<sup>2</sup> which equates to an overall lot coverage of 11.14%. The additional lot coverage was requested to accommodate for any future accessory building which would likely be situated at the rear yard and screened from public view. Adequate land area will remain available to handle stormwater runoff (subject to the requested lot grading plan) and preserve rear yard amenity area, and to allow for the construction of a new septic system as per Region’s request to service the proposed dwelling. Elevation plans and perspective drawings are requested as a condition of approval to demonstrate neighbourhood compatibility and appropriate transition between subject and adjacent properties.</p> <p>The proposed reduced front yard variance is minor overall as there will still be adequate distance that separates the main building face from the public street, the proposed building is also setback further than the existing building and is generally in-line with adjacent properties. This</p>

	<p>portion of Canboro Road generally has buildings closer to the street than what is the required setback in the Zoning By-law; maintaining this streetscape and building setback line is important to the character of Canboro Road.</p> <p>The proposed reduced side yard variance is minor overall as the required setback is indented for rural residential purposes which are characterized by significantly larger agricultural lots with an established frontage and would comfortably allow for the implementation of the required setback. Given the restrictive lot frontage and the overall narrow shape of the subject lot, this variance is considered minor subject to the demonstration that the proposed redevelopment will not result in any drainage issues to the neighbouring properties.</p> <p>The proposed reduced distance between driveway and lot lines variance is minor overall as it faces the similar constraints as the side yard requirement with regards to the limited lot frontage. Moreover, the proposed driveway is generally located in the same area as the existing driveway and will be located more centrally within the site. The intent of the required distance is to also ensure safe vehicular movements, a reduction in distance is acceptable and no issues were identified with respect to sight line concerns, site accessibility and vehicle maneuverability.</p> <p>The variances are considered minor in nature as no detrimental impact to the subject and adjacent lands are anticipated, subject to the demonstration of adequate drainage and private servicing capacity. The location of the proposed building is reasonable and the size of the new building should not have adverse impacts to the subject and surrounding properties subject to the demonstration of neighbourhood character compatibility through the requested elevation plans and perspective drawings.</p>
2. The variance is desirable for the development or	<p>The increase of the building lot coverage is desirable as the overall lot coverage is not significantly increased and the proposed dwelling is an average sized dwelling, while the</p>

use of the land.	<p>lot is considered an undersized lot and is an existing lot of record.</p> <p>The side yard setback variance is considered desirable as the proposed dwelling has approximately the same side yard setback (to the west) as the existing building and the existing mature trees situated on the west property line can provide for visual screening for the proposed dwelling and adjacent properties. All existing trees are expected to be preserved and a Trees Saving Plan is requested to demonstrate this intent and effort.</p> <p>The reduced driveway minimum distance variance is considered desirable as it will be relocated to a more central location within the site and would in turn improve vehicular circulation and accessibility.</p>
3. The variance maintains the general intent and purpose of the Official Plan.	<p>The proposed single detached dwelling is a permitted use in the 'Specialty Agricultural' designation of the Official Plan and uses which are compatible with agriculture are permitted. The requested lot coverage and setback variances should have no impact on the agricultural viability of the subject lands or the agricultural use of the surrounding area and will not compromise the objectives of the Official Plan, with respect to land use compatibility, storm water runoff and private sewage system servicing capabilities which are subject to the demonstration and satisfaction of the requested conditions of approval.</p>
4. The variance maintains the general intent and purpose of the Zoning By-law.	<p>The variances maintain the general intent of the Zoning By-law as the subject site is located in an area which can be characterized as a rural village and smaller, narrow lots similar to the subject site exist quite commonly in the surrounding neighbourhood. The requested variances will allow for a slightly larger rural residential dwelling without creating an egregious building that is completely out of character in the surrounding neighbourhood. The requested plans/drawings must display how the proposed dwelling will provide a harmonious transition between the adjacent properties to the subject property to address any potential height and massing concerns.</p>

### Agency & Public Comments

On September 15, 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:

- Building Division (September 21, 2021)
  - Building permit is required for the proposed 2 storey dwelling, building code compliance will be a requirement.
  - Retaining walls greater than 1m require a building permit.
- Public Works Department (September 20, 2021)
  - The following comments shall be addressed to the satisfaction of the Director of Public Works.
    - Town of Pelham Public Works Staff require that the applicant submit an overall lot grading and drainage plan to demonstrate that the drainage does not negatively impact nor rely on neighboring properties.
    - Please be advised that construction of a new driveway or any modifications to existing driveways/entrance will require a Driveway Entrance and Culvert Permit. Installation of entrances shall be in accordance with Town Standards prior to consent and the applicant shall bear all costs associated with these works.
- Niagara Region Development Services Division (Original comments received on September 21, 2021)
  - Unsupportive of the application and has concerns that whether the existing site conditions can support a new septic system. Requested a detailed septic design by an approved septic contractor/designer to be submitted to the Department meeting Ontario Building Code requirements to confirm if the proposed development can be serviced on the restrictive lot.
- Niagara Region Development Services Division (Revised comments received on September 24, 2021)
  - Region's position remains unchanged that a new septic system must be required and due to access the septic system will need to be built first before the new home.
  - The septic design and permit application is requested as a condition of approval. Nothing can be built upon a septic system in order to ensure it will function effectively into the future. The septic system must also comply with setbacks in accordance with the Ontario Building Code.

One (1) public comment was received from a neighbouring property owner (372 Canboro), which is included on the Committee's Agenda and summarized below:

- Yvon Audette & Wendy Audette (September 22, 2021)
  - Object to the lot coverage and side yard setback variances.
  - Concern that the proposed dwelling may not fit with the existing rural residential neighbourhood built form and character.
  - Main concern being the reduced side yard setback which may disrupt the existing mature trees which are currently on the west property line and on subject and adjacent lands. Another concern raised is that the limited access to the backyard which may lead to repeated requests to use adjacent neighbour's land for access.

### 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 May 19, 2021 to discuss the subject application. In addition to a Site Plan and a Survey sketch, a Planning Justification Brief prepared by Upper Canada Consultants dated September 2, 2021 was also submitted in support of the proposed development. Planning staff have reviewed the *Planning Justification Brief*, as well as all agency and public correspondence submitted to date.

The subject lands are located on the south of Canboro Road, west of Effingham Street and are surrounded by the following:

- North – Farm with rural residential dwellings
- East – Rural residential dwellings
- South – Farm with rural residential dwellings
- West – Rural residential dwellings

Subject to the conditions that have been recommended, staff is of the opinion that the proposed variance will not have a negative impact on the subject property nor any neighbouring properties. The proposal makes efficient use of the land, will not result in overbuilding of the property, will not alter the view, sightlines or personal enjoyment of the subject property or any neighbouring properties, and should not be of detrimental impact to the lands, the street or surrounding area.

In Planning staff's opinion, the application is consistent with the PPS and conforms to Provincial, Regional, and local plans. The requested variance is minor in nature, 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.

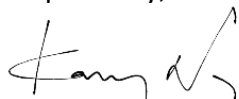
Given this analysis, Planning staff recommend that minor variance file A36/2021P **be approved** subject to the following conditions:



**THAT** the applicant

- Apply for and submit a New Septic Permit Application along with a detailed septic design by an approved septic contractor/designer, to the Niagara Region, for review and approval. The plan must demonstrate that the proposed development can be serviced by a new septic system on the restrictive lot, to the satisfaction of the Niagara Region. No construction shall commence prior to the clearance of this condition and upon a new septic system in place which can ensure full functionality.
- Conduct a Stage 1-2 Archaeological Assessment and receive clearance from the Ministry of Heritage, Sport, Tourism & Culture Industries.
- Undertake a Tree Savings Plan identifying trees to be retained and remain undisrupted to the satisfaction of the Director of Community Planning and Development.
- Provide front and side dwelling *Elevation Plan(s)* and perspective view drawing(s) that positively contribute to the surrounding neighbourhood and demonstrate compatibility and harmonious transition with the existing streetscape with respect to height, massing and design continuity, through the use of a front porch, windows symmetrically proportionate to the building's mass, a congruent use of exterior cladding, reduced garage dominance, etc., to the satisfaction of the Director of Community Planning & Development. Said *Elevation Plans* shall be substantially unaltered from those at the time of building permit.
- Submit a comprehensive overall lot grading plan, to demonstrate that the drainage does not negatively impact nor rely on neighbouring properties, to the satisfaction of the Director of Public Works.
- Obtain a Driveway Access and Culvert Permit from the Town for the construction of a new driveway or any modifications to existing driveways/entrance. Installation and/or modification of new entrances shall be completed in accordance with Town Standards prior to Building Permit and the Applicant shall bear all costs associated with the works.
- Apply for and receive Building Permit for the proposed dwelling and retaining walls prior to construction.

Prepared by,

Kenny Ng, B.ES  
Planner

Approved by,

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