

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

September 21, 2021

File No.: D.17.06.MV-21-0072

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 Application
Town File No.: A35/2021P
Agent: Joel Rypstra
Address: 260 Welland 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.

Pre-consultation comments for the proposal were provided via email on May 13, 2021. 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 building will be accessory to an existing dwelling on the subject property. As outlined further below, the proposed accessory building will not have a negative impact on the environmental features on the property. Further, the property is privately serviced, and therefore new municipal services will not be required, and there are no servicing concerns associated with the proposal. The proposed accessory building will be situated in close proximity to the existing dwelling, and therefore should not hinder future agricultural use of the property. 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.

Core Natural Heritage

The subject property is impacted by the Region's Core Natural Heritage System (CNHS), consisting of Fonthill Kame Provincially Significant Wetland Complex (PSW) and Significant Woodland (see map attached in Appendix). The property is within the Provincial Natural Heritage System (PNHS) of A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan), which identifies these features as Key Natural Heritage Features (KNHF) and Key Hydrologic Features (KHF), and are subject to the natural heritage policies of the Growth Plan.

Growth 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 and within 50 metres of Significant Woodland. Further, Growth Plan policies also require that a minimum 30 metre Vegetation Protection Zone (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.

An existing building on the property is proposed to be replaced by a larger building, both of which are in the VPZ of the PSW. Growth Plan policies allow for expansions to existing accessory structures provided that the use does not expand into KNHF/KHF or their VPZ unless there is no other alternative, in which case any expansion will be limited in scope and kept within close geographical proximity to the existing structure. Since the existing storage building is already within the VPZ and the new storage building expansion is directed away from the PSW, Regional staff are satisfied that the proposed development conforms to Growth Plan policies.

Regional Environmental Planning staff are satisfied that the proposed development is consistent with Provincial and Regional environmental policies, and offer no objections. Although not required to address Provincial and Regional environmental policies, it is recommended that standard erosion and sediment control fencing be installed prior to construction and maintained for the duration of construction. It is also recommended that consideration be given to planting additional native vegetation between the new storage building and the adjacent wetland.

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 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 (Welland Road). The foundation plans circulated with the application show that the proposed storage building will be constructed with full foundation walls. This manner of construction will result in significant ground disturbance that has the potential to unearth deeply buried archeological resources.

As identified in the pre-consultation comments provided to Town staff, although the proposed storage building will be partially situated on the footprint of an existing building on the subject property, historical aerial photography appears to show that this existing building may have been constructed prior to 1960. Provincial screening criteria states that the requirement for an archeological assessment can only be waived when there is evidence that the development area has been subject to recent (defined as occurring after 1960), extensive (defined as occurring over all or most of the area) and intensive (defined as resulting in thorough or complete disturbance) ground disturbance. Accordingly, the existing structure cannot be considered recent ground disturbance under Provincial screening criteria, and it is recommended that a Stage 1 Archeological Assessment, and any subsequent required assessments, be required as a condition of approval for the portion of the property that will be disturbed as a result of the proposed development.

Private Servicing

Regional records indicate that a sewage system consisting of a septic tank and filter bed (Class 4 system) was installed on the subject property in 2007, with approval from the Niagara Region Public Health Department. This existing septic system is located north of the existing dwelling. The proposed accessory storage building meets the

required setbacks to this existing septic system as per the Ontario Building Code (OBC). No living space, plumbing fixtures or bedrooms are permitted in the proposed accessory storage building. The subject property also contains sufficient usable area for a replacement system in the future if required.

Therefore, based the information submitted for the minor variance application, Regional Private Septic System staff have no objections to the proposed accessory storage building, provided no plumbing or living space is included within it.

Conclusion

In conclusion, Regional staff have no objection to this minor variance application from a Provincial or Regional perspective, subject to the satisfaction of any local requirements, and provided the following conditions are implemented to ensure the variance maintains the intent and purpose of Regional Official Plan policies pertaining to the conservation of archaeological resources, as well as the provision of adequate private servicing:

1. That the owner submits a Stage 1 Archaeological Assessment, prepared by a licensed archaeologist, to the Ministry of Heritage, Sport, Tourism and Culture Industries, for review and approval with a copy provided to the Niagara Region. The report must be accepted by the Ministry, to the satisfaction of Niagara Region, prior to clearance of this condition. It should be noted that subsequent Stage 2, 3 or 4 study may be recommended to mitigate any adverse impacts to significant archaeological resources found on the site through preservation or resource removal and documentation. If the licensed archaeologist or the Ministry recommends/requires further Stage 2, 3 or 4 Archaeological Assessments, these report(s) must also be submitted to and accepted by the Ministry, to the satisfaction of Niagara Region.

NOTE: No demolition, grading or other soil disturbances shall take place on the subject property prior to the issuance of a letter from the Ministry confirming that all archaeological resource concerns have been mitigated and meet licensing and resource conservation requirements.

2. That the accessory building not contain any plumbing or living spaces.

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 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 Aimee Alderman, MCIP, RPP, Senior Development Planner at Aimee.Alderman@niagararegion.ca.

Kind regards,

A handwritten signature in black ink, appearing to read "Amy Shanks", with a stylized, flowing script.

Amy Shanks
Development Planner

cc: Aimee Alderman, MCIP, RPP, Senior Development Planner, Niagara Region
Lori Karlewicz, Planning Ecologist, Niagara Region
Devon Haluka, Private Sewage System Inspector, Niagara Region
Kenny Ng, Planner, Town of Pelham

Appendix: Core Natural Heritage System Mapping

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