

January 26, 2022

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

Re: Minor Variance Application A2/2022P
368 Canboro Road, Pelham
Part of Lot 7, Concession 8
Roll No. 2732 020 013 09400

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 1.5 metres from the side property lines 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(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. The applicant has therefore conducted a Stage 1 and 2 Archaeological Assessment, prepared by Detritus Consulting Ltd. (dated August 13, 2021). Given the results of the Stage 1-2 assessment and the recovery of no archaeological resources, no further archaeological assessment was recommended by the licensed archaeologist.

In a letter dated Aug 24, 2021, the Ministry of Heritage, Sport, Tourism, and Culture Industries acknowledged the information contained in the Stage 1 and 2 Archeological Assessment and its recommendations. The report has been entered into the Ontario Public Register of Archaeological Reports. As such, no further archeological assessment is warranted, and archaeological resources have been addressed for the subject property.

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 fulfillment of requested conditions 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 1.5 metres from the side property lines 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(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.	In considering the increase to the maximum building lot coverage to 15 %, staff is of the opinion that although the permitted lot coverage will be exceeded, the anticipated impact on the subject property and adjacent properties is minimal. The variance is not too large in actual measurement, as the subject lot has an overall area of 2172.75 m ² , with the proposed building area of 276.43 m ² which equates to an overall lot coverage of 12.72%. This would not result in an oversized building that would be incompatible or appear egregious in the immediate neighbourhood. Adequate open space will remain available to handle stormwater runoff (subject to the requested lot grading and drainage plan) and preserve sufficient 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. The proposed dwelling is located to the rear of the property where it will have the least impact on adjacent lands and is more than 60m separated from the nearest adjacent dwelling. The separated distance is considered to be more than sufficient to not impact on privacy, sunlight and openness. The proposed dwelling will also conform to the height requirements of the by-law and the scale and mass of the proposed dwelling is typical of a single detached dwelling

	<p>with an attached garage and is not so extreme to result in an adverse impact with respect to shadowing or overlook.</p> <p>The proposed reduced side yard variance is minor overall given the restrictive configuration of the lot caused by the overall narrow shape of the lot and the 'flag' lot configuration. In considering the limited lot fabric and buildable area, this variance is considered minor in nature and should not result in adverse impacts to subject and surrounding properties given that the dwelling is more than sufficiently separated from adjacent dwellings.</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 fabric. 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 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 impacts 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 given the prevailing condition of the lot. The proposed size of the new single detached dwelling combined with its proposed location is not egregious and should not have adverse impacts or deemed incompatible with adjacent residential uses and the surrounding agricultural and rural uses.</p>
2. The variance is desirable for the development or use of the land.	<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 lot is considered an undersized lot with a narrow lot fabric which poses limitations in the property's built form within the buildable area.</p>

	<p>The intent of the side yard setback is to ensure that new development have regard for adjacent dwellings and to minimize impact to structures on adjacent lots. It also ensures the maintenance of an outside access around the building and the retention of open space on individual properties. The side yard setback variance is considered desirable as there is adequate distance which separates the proposed building from adjacent structure on neighbouring properties. There is also adequate space to maneuver around the building for access and retains ample open space in the rear yard.</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 to be situated in the rear yard, which is not out of character in the surrounding neighbourhood. The requested zoning reliefs are necessary to address the site's particular lot configuration that is quite limiting in depth and size with regards being able to site the proposed dwelling with minimal impact on adjacent properties.</p>

Agency & Public Comments

On December 24, 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 Development Services Division (January 12, 2022)
 - The site is a tight space with a natural slope to the east with trees on the west side which would have to be removed to accommodate a septic system in this area. In the future, no structures are permitted to be constructed in the bed area which includes the mantle.
 - Regional staff offers no objections to the proposed addition subject to the applicant obtaining a septic permit prior to the issuance of a building permit.
- Building Division (January 19, 2021)
 - Demolition permit is required for the proposed structures to be removed.
 - Building permit required for the proposed dwelling.
- Public Works Department (January 19, 2021)
 - Public Works Staff suggests the following conditions:
 - Due to the alterations to the site, Town staff will require a comprehensive lot grading and drainage plan demonstrating that storm water runoff will not negatively impact nor rely upon neighboring properties. This includes overland flow routes, identifying swales and roof leader discharge locations, and showing that neither parcel will rely on the other for drainage.
 - If a new driveway or alterations to an existing driveway is proposed, the Applicant shall obtain a Driveway Access and Culvert Permit from the Town. Installation and/or modification of new entrances shall be completed in accordance with Town Standards prior to consent and the Applicant shall bear all costs associated with the works.

Several public comments were received from neighbouring property owners, which are included on the Committee's Agenda and summarized below including responses to the comments:

- Yvon and Wendy Audette (January 16, 2022)
 - Concern with loss of privacy and openness, light and noise pollution due to the placement of new home. – *the proposed home will replace the existing home on the subject lands and will be placed further away from homes on adjacent properties than the current home on the property resulting in minimal impact on privacy, openness, light and pollution.*

- Concern with stormwater and septic drainage, as well as septic system code compliance. – *the applicant will be required to obtain approval for a new septic system and approval of a lot grading and drainage plan as part of the building permit approval process.*
- Worried that mature trees will be removed for the installation of utilities. – *it is not anticipated that any trees will be removed to accommodate this proposed development. The existing house and garage will be demolished allowing for the new driveway and utilities to be installed without impacting any mature trees and the proposed dwelling is located in area where there are no trees.*
- Erik Rohrmoser (January 17, 2022)
 - Concern with stormwater drainage, septic drainage, safety, view, etc. *prior to a building permit being issued, the proponent is required to obtain permit approval for a new septic system by the Region of Niagara and design of lot grading and drainage plan to the satisfaction of the Director of Public Works. The siting of the proposed dwelling to the rear of the property does not create any additional safety issues in the neighbourhood. Unfortunately, the right to a view is not a land use planning consideration, the dwelling will be located greater than 60m to the nearest dwelling and as such the impact on view is minimal.*
 - Loss of backyard space for agricultural, recreational purposes, as well as loss of property value and community feel due to new structure in backyard. – *the backyard is still greater than 19m in depth which is adequate for garden and amenity area. While the applicant initially proposed a dwelling at the front in keeping with the streetscape, it caused significant impacts on adjacent properties, resulted in tree loss and construction challenges that rendered that location not feasible.*
- Howard and Cyndy Best (January 18, 2022)
 - Concern with stormwater drainage and septic drainage causing negative impacts to neighbouring properties. – *the applicant is required to obtain approval for lot grading and drainage plan to the satisfaction of the Director of Public Works prior to building permit being issued.*
 - Object to the building placement and the requested side yard setback, which would lead to loss of privacy. – *impact on reduction of side setback is considered to minimal. The proposed dwelling is located sufficiently distance from other dwellings to not result in privacy issues. The proposed dwelling is also located more than 30m from neighbouring pool.*
 - Recommend adding a storey in the existing house to increase space. – *the applicants have chosen to build a new home vs. adding on or renovating the existing home.*
- Nigel Witteveen & Caitlin Manson (January 18, 2022)

- Concern with drainage causing negative impacts to neighbouring properties. – *prior to a building permit being issued for the proposed new dwelling the proponent will be required to obtain approval of a grading and drainage plan to the satisfaction of the Director of Public Works demonstrating how the grading of the property will be managed.*
- Object to the building placement, which would lead to loss of view. – *due to the configuration of the lot, the applicant is not able to site a dwelling in the front portion of the lot. Previous attempts to site a home in the front of the property resulted in more significant impacts on adjacent properties, tree loss and construction issues. The proposed dwelling is greater than 60m separated from adjacent dwellings resulting in minimal impact on views. While the proposed dwelling is located in proximity to a portion of the neighbouring rear amenity area, there remains significant rear amenity area that is not impacted by the placement of the dwelling and any impact is considered to be minimal.*
- Patty Crowe (January 19, 2022)
 - Concern with stormwater and septic and would like to request a stormwater management report be submitted. – *prior to a building permit being issued, the proponent is required to obtain permit approval for a new septic system by the Region of Niagara and design of lot grading and drainage plan to the satisfaction of the Director of Public Works.*
- John and Susan Pruyn (January 19, 2022)
 - Concern with stormwater and septic and would like to request a stormwater management report be submitted. – *prior to a building permit being issued, the proponent is required to obtain permit approval for a new septic system by the Region of Niagara and design of lot grading and drainage plan to the satisfaction of the Director of Public Works.*
 - Object to side yard setback variance, and concern with impacts to agricultural use of adjacent lands. – *the impact of the proposed side yard setback is considered to be minimal and the impact on the agricultural land use to the rear is minimal given the rear yard setback of over 19m.*

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 December 14, 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

It is noted that the applicant initially proposed a new dwelling in the general location of the existing dwelling to maintain the streetscape of the Canboro Road in this area. However, that location resulted in greater impact on the adjacent land uses, would have resulted in a significant amount of tree removal and caused significant issues with regards to construction and need to access adjoining lands. As a result, it was not considered to be a desirable option and the applicant revised their house designs and relocated the proposed dwelling to the rear of the property where it could be more easily accommodated, have less impact on adjacent properties, not result in tree removal, albeit it altering the streetscape somewhat. However, it is noted that there are a number of locations along Canboro Road that houses are setback further and to the rear of other lots and they have proven to compliment the area.

Based on the analysis given in above sections and the requested conditions of approval, staff is of the opinion that 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.

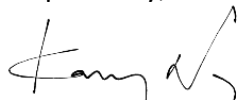
Given this analysis, Planning staff recommend that minor variance file A2/2022P **be approved** subject to the following conditions:

THAT the applicant

- Apply for and submit a Septic Permit Application along with a detailed septic design by an approved septic contractor/designer, to the Niagara Region, for review and approval. No construction shall commence prior to the clearance of this condition and upon a new septic system in place which can ensure full functionality.
- Submit a comprehensive overall lot grading and drainage 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 all necessary Building Permits for the proposed dwelling prior to construction.

Prepared by,



Kenny Ng, B.ES
Planner

Approved by,



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