

June 28, 2022

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

Re: Consent Application B6/2022P
645 Canboro Road, Pelham
Part of Lot 12, Concession 9
Roll No. 2732 010 014 13100

The subject parcel, shown as Part 1 on the attached sketch, has a frontage of 9.69 metres on the north side of Canboro Road, lying west of Cream Street, being Part of Lot 12, Concession 9 in the Town of Pelham.

Application is made for consent to convey 0.22 hectares of land (Part 1) to be added to the abutting property to the east, shown as Part 3 on the attached sketch and known municipally as 631 Canboro Road, to rectify existing encroachments. Part 2 is to be retained for continued residential use of the dwelling known municipally known as 645 Canboro Road.

Applicable Planning Policies

Planning Act (Consolidated July 2016)

Section 51 (24) states that when considering the division of land, regard shall be had to the health, safety, convenience, accessibility and welfare of the present and future inhabitants of the municipality and among other things to,

- a) The development's effect on provincial matters of interest;
- b) Whether the proposed subdivision is premature or in the public interest;
- c) Whether the plan conforms to the Official Plan and adjacent plans of subdivisions, if any
- d) The suitability of the land for such purposes;
- f) The dimensions and shapes of the proposed lots;
- h) Conservation of natural resources and flood control;
- i) The adequacy of utilities and municipal services;
- j) The adequacy of school sites

Section 53 (1) states a land owner may apply for a consent and the council may, subject to this section, give a consent if satisfied that a plan of subdivision is not necessary for the proper and orderly development of the municipality.

The proposed boundary adjustment seeks to sever 0.22 hectares of land (Part 1) from the property at 654 Canboro Road (Part 2) and convey this to the abutting property to the east known municipally as 631 Canboro Road (Part 3).

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 subject land is located in a ‘Settlement Area’ according to the PPS. Policy 1.1.3.1 states that settlement areas shall be the focus of growth and development.

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 identifies this area as having high archaeological resource potential, however a boundary adjustment is not considered “development” under the PPS and therefore as there is no site alteration proposed, an archaeological assessment is not required. The applicant is however advised that any future *Planning Act* application involving the subject lands may require the completion of an archaeological assessment.

The proposed boundary adjustment is being made to recognize an existing encroachment and does not include any site alteration or construction. Planning staff are of the opinion the requested boundary adjustment is consistent with the PPS.

Greenbelt Plan (2017)

The Greenbelt Plan designates the subject lands as 'Town/Village'. These lands are included within the definition for 'Settlement Areas' and are located within the Protected Countryside. The Fonthill Kame Provincially Significant Wetland Complex is identified as a Key Hydrologic Feature and is subject to the natural heritage policies of the Greenbelt Plan.

Policy 1.4.2 states that the policies of this Plan generally do not apply to Towns/Villages and Hamlets. Official Plans will continue to govern their land use based on policy direction of the Growth Plan. Greenbelt policies require the completion of a Natural Heritage Evaluation when development or site alteration is proposed within 120 metres of a Key Hydrologic Feature and that a 30 metre Vegetation Protection Zone be established as natural self-sustaining vegetation.

Policy 4.6.1 e) states that lot creation is discouraged but minor lot adjustments or boundary additions may be permitted, provided they do not create a separate lot for a residential dwelling in prime agricultural areas, including specialty crop areas, and there is no increased fragmentation of a key natural heritage feature or key hydrologic feature.

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. The proposed consent facilitates a boundary adjustment and would not be considered development. Additionally, the reconfigured lot line ensures no increased fragmentation of any key natural heritage features. Staff are of the opinion that the proposed boundary adjustment is in keeping with the policies of the Greenbelt Plan.

Growth Plan for the Greater Golden Horseshoe (2020)

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 to 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 a designated greenfield area and is located within a 'Settlement Area' according to the Growth Plan. Designated greenfield areas are required to accommodate forecasted growth to this Plan's horizon. Guiding principles regarding how land is developed:

- Support the achievement of complete communities to meet people's needs through an entire lifetime.
- Prioritize intensification and higher densities to make efficient use of land and infrastructure.
- Support a range and mix of housing options, including second units and affordable housing, to serve all sizes, incomes, and ages of households.
- Provide for different approaches to manage growth that recognize the diversity of communities in the GGH.
- Integrate climate change considerations into planning and managing growth.

In the Designated Greenfield Area, the Growth Plan requires that new development be comprehensively planned to achieve a minimum density target of 50 people and jobs per hectare. The Town of Pelham is currently completing the East Fenwick Secondary Plan which will establish detailed policies for the development of this area in accordance with these Provincial and Regional policies.

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. The proposed conveyance facilitates a boundary adjustment and would not be considered development. Accordingly, Staff is of the opinion that the proposed boundary adjustment is in keeping with the policies of the Growth Plan.

Regional Official Plan (Consolidated August 2014)

The Regional Official Plan designates the subject lands as 'Designated Urban Area (Built-Up Area)' and they are located within the Town's Urban Area

Boundary. The subject land also shares the following environmental designations on at least part of the property: Fonthill Kame Provincially Significant Wetland Complex (PSW) and Significant Woodland.

Regional Official Plan Policy 7.B.1.11 notes that an Environmental Impact Study (EIS) is generally required in support of site alteration and/or development proposed within 120 metres of a PSW and 50 metres of a Significant Woodland. The proposed boundary adjustment will be outside of the required setbacks and as such, an EIS is not required.

Regional Planning Staff are satisfied the proposed boundary adjustment conforms to Provincial policies, avoids fragmentation of key natural heritage features and meets Regional lot creation criteria.

Private Sewage System ("PSS") Inspection staff have reviewed the proposed application and is able to confirm that the existing sewage system at 631 Canboro Road (Part 3) is not being adversely affected by the proposed boundary adjustment. There appears to be sufficient useable area for any future septic system repair and/or replacement that may be required.

With respect to 645 Canboro Road, no record was found for the existing legal non-conforming private sewage system that services the property. PSS staff conducted a site visit of the property on June 22, 2022 and observed that the lids of the septic tank were not fully exposed, and therefore, staff were unable to inspect the levels inside. The septic tank is located north of the dwelling. The location of the in-ground leaching bed is unknown and given information on-site, may not exist. The Owner advised PSS staff that the septic tank is pumped out whenever the toilet stops flushing, which would indicate the system is failing as the leaching bed is no longer accepting effluent. A septic tank cannot be operated as a holding tank and the property contains enough room to support a Class 4 Sewage System.

Therefore, provided that there is no change to either existing dwelling, PSS staff does not object to the Consent (Boundary Adjustment) Application, subject to the Owner of 645 Canboro Road applying for a Septic Permit Application and installing a new Class 4 Sewage System to replace the failing sewage system servicing the property.

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 local Official Plan designates the subject land as 'Urban Living Area/Built Boundary' with a 'Greenfield Overlay' according to Schedule 'A2'.

Policy A4.1.1 states that lands designated Urban Living Area are the site of existing and planned residential development and complementary uses on full municipal services, or planned to be connected to full municipal services all within the urban boundaries of the Fonthill and Fenwick Settlement Areas.

Additionally, Policy A4.1.6 states that lands designated as Greenfield Overlay are lands which have been identified in the Province of Ontario's Growth Plan for the Greater Golden Horseshoe as being generally undeveloped urban land located outside of the built boundary. In accordance with Provincial and Regional Policy such lands are, through new development, to achieve future population and employment densities of at least 50 jobs and people per hectare.

Policy B1.1.10 notes that further lot creation for residential use shall not be permitted in Fenwick outside of the built boundary until a Secondary Plan is approved. As the proposed boundary adjustment does not create any new lots, Staff is of the opinion that the proposal is in keeping with the appropriate policies of the Town's Official Plan.

Policy D5.2.1 states that for any consent application, the Committee of Adjustment shall be satisfied that (among other things) the proposed lot:

- a) Fronts on and will be directly accessed by a public road;
 - ✓ Unchanged.
- b) Will not cause a traffic hazard;
 - ✓ Unchanged.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
 - ✓ Yes.

- d) Can be serviced with an appropriate water supply and means of sewage disposal;
 - ✓ Unchanged – privately serviced.
- e) Will not have a negative impact on the drainage patterns in the area;
 - ✓ No impact.
- f) Will not affect the developability of the remainder of the lands, if they are designated for development by this Plan;
 - ✓ Each land designation and zone are proposed to remain intact on their respective parcels.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
 - ✓ No negative impact.
- h) Conforms with Regional lot creation policy as articulated in the Regional Official Plan.
 - ✓ No objection from Region.
- i) Complies with the appropriate Provincial Minimum Distance Separation Formulae, where applicable.
 - ✓ N/A

Policy D5.2.2 states that the conveyance of a boundary adjustment for the purpose of enlarging an existing lot that does not provide a new building lot, may be permitted. The Committee of Adjustment shall be satisfied that the boundary adjustment will not affect the viability of the use of the properties affected as intended by this Plan.

The proposed severance would facilitate a boundary adjustment between two residential properties, each with an existing single detached residential dwelling. No new building lots will result from this boundary adjustment and Staff is of the opinion that the proposal is in keeping with the policies of the Town's Official Plan.

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

The subject lands are currently zoned 'Residential Village 1' (RV1).

Parts 2 and 3 will continue to comply with the RV1 zone requirements after parcel reconfiguration. Any future development on any of the subject lands will continue to need to comply with their respect zoning regulations and permitted uses.

Agency & Public Comments

On May 12, 2022, 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 (June 20, 2022)
 - No comment.
- Public Works Department (June 20, 2022)
 - The Applicant shall confirm no existing utilities crossed the proposed new property line. Should any services cross this new property line, the Applicant will be responsible for the cost associated with their relocation and/or removal.
- Niagara Region Development Services Division (June 28, 2022)
 - No objections to the proposal provided the owner at 645 Canboro Road applies to the Niagara region for a Septic Permit Application to service the existing dwelling on the property and installs the new system.

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

Planning Staff Comments

The subject application deals with the conveyance of 0.22 hectares (Part 1) to merge with the abutting lands to the east (Part 3) as a boundary adjustment to recognize an existing encroachment. The remaining lands (Part 2) will continue to be used for an existing single detached dwelling.

A pre-consult meeting was held with the applicant(s) of the property and staff from the Town and Niagara Region Planning & Development Services on June 17, 2021 to discuss the subject application.

The subject lands are located on the south side of Canboro Road, west of Cream Street in the Urban Settlement Area of Fenwick. The lands are surrounded by other residential uses and Staff visited the site and reviewed aerial photography to better understand the local context.

Planning staff is of the opinion that the proposed boundary adjustment maintains compliance with the Town's Zoning by-law and conforms to the policies in the Town's Official Plan as well as Provincial and Regional Policy documents. The proposed boundary adjustment does not create any additional building lots, and does not propose any new development, therefore it can be supported by Staff.

Given this analysis, Planning staff recommend that consent file B6-2022P **be approved** subject to the following conditions:

THAT the applicant:

- That the owner of 645 Canboro Road (Part 2) apply to and receive approval from the Niagara Region for a Septic Permit Application to install a new Class 4 Sewage System to service the existing dwelling on the Property to the satisfaction of the Region of Niagara.
- Confirm that no existing utilities cross the proposed lot lines. Should any services cross these lot lines, the applicant shall be responsible for costs associated with their relocation and / or removal.
- Ensure Part 1 merges in title with Part 3.
- Provide the Secretary-Treasurer with a registerable legal description of the subject parcel, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.
- Provide the final certification fee of \$411, payable to the Treasurer, Town of Pelham, be submitted to the Secretary-Treasurer. All costs associated with fulfilling conditions of consent shall be borne by the applicant.

Prepared by,



Lindsay Richardson, MCIP, RPP
Policy Planner

Approved by,



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