



**Community Planning and Development Department
Committee of Adjustment**

Tuesday, December 06, 2022

Minor Variance Application: A17-2022P

Municipal Address: 855 Twenty Road

Legal Description: Part of Lot 17, Concession 1, designated as Part 4 on Plan 59R-9933

Roll number: 2732 010 008 01700

Nature and Extent of Relief/ Permission Applied for:

The subject land is located on the north side of Twenty Road, legally described above, and known locally as 855 Twenty Road in the Town of Pelham.

The subject land is zoned Agricultural (A) in accordance with Pelham Zoning By-law 1136(1987), as amended. Application is made to construct a detached garage with loft on the property, and seeks for relief from:

- a. **Section 7.4 (c) "Maximum Lot Coverage":** requesting a maximum lot coverage of 14.33% whereas a maximum lot coverage of 10% is permitted.
- b. **Section 7.7 (c) "Maximum Lot Coverage":** requesting a maximum lot coverage of 3.79% for accessory structures whereas a maximum lot coverage of 1% is permitted for accessory structures.

The existing accessory building will be demolished and replaced with the proposed new detached garage.

Applicable Planning Policies:

Planning Act, R.S.O. 1990, c.P.13

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 (the "Four Tests").

Provincial Policy Statement (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 suitable development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment.

The subject lands are within the Provincial Agricultural System, and are considered a "Specialty Crop Area." The permitted uses, among others, include agricultural/agricultural related uses, limited residential development and home occupations.

Policy 2.6.2 of the PPS does not permit development and site alteration on lands containing archaeological resources unless significant archaeological resources have been conserved. The lands are identified as displaying composite archaeological potential per the Town's Archaeological Master Plan. The proposed accessory structure will be constructed with a slab-on-grade foundation. As such, the Town will not require the completion of an archaeological assessment at this time. Any future Planning Act applications for the property may require an archaeological assessment.

Provincial and Regional policies aim to protect agricultural land for long-term agricultural use. Specifically, Section 2.3 "Agriculture" of the PPS sets the policy framework for prime agricultural areas. Policy 2.3.6.1 permits limited non-agricultural uses in prime agricultural areas. Planning staff note that the property is 3,201 m² in land area, is not farmed and is considered to be a rural residential lot at this time.

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.

Staff are of the opinion that the proposed variance is consistent with the Provincial Policy Statement.

Greenbelt Plan (2017)

The lands are located in the "Niagara Peninsula Tender Fruit and Grape Area" within the Protected Countryside Designation of the Greenbelt Plan.

Section 3.1.2 (Specialty Crop Area Policies) states that for lands falling within *specialty crop areas* of the *Protected Countryside* all types, sizes and intensities of agricultural uses and *normal farm practices* shall be promoted and protected.

The subject lands are within 120 metres of the Upper Sixteen Mile Creek Wetland Complex. Under Greenbelt policies, wetlands are considered Key Hydrological Feature (KHF). Greenbelt Plan policies require the completion of a Natural Heritage Evaluation (NHE) when development and/or site alteration is proposed within 120 metres of a KHF in the Protected Countryside. Regional policies similarly require the completion

of an Environmental Impact Study (EIS) when development and/or site alteration is proposed within 50 m of LSW/Significant Woodland.

Further, Greenbelt policies also require that a minimum 30 m Vegetation Protection Zone (VPZ), measured from the outside boundary of a KHF, be established as natural self-sustaining vegetation. Development and/or site alteration is not permitted within a KHF or its VPZ.

The proposed garage is within the above-noted setback. However, the Greenbelt Plan offers exemptions for accessory structures provided that the use does not expand into KHF or VPZ, unless there is no alternative, in which case any expansion shall be limited in scope and kept within close geographical proximity to the existing structure. The proposed garage meets these requirements, and as such there will be no requirements for an NHE.

Policy 4.5 states that all existing uses are permitted, including single dwellings on existing lots of record, provided they were zoned for such prior to the Greenbelt Plan coming into force. Expansions to existing buildings which bring the use more into conformity with this Plan are permitted so long as new municipal services are not required and the addition does not expand into key natural heritage / hydrologic features.

The proposed garage is located adjacent to the existing storage building which will be demolished. The garage is relatively small in scale and its location does not expand further into key natural heritage features, but rather is an improvement over the location of the existing storage building.

Planning staff are of the opinion the proposed accessory building does not conflict with Greenbelt Plan policy.

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 lands are within the Specialty Crop Area in the Provincial Agricultural System under the A Place to Grow: Growth Plan for the Greater Golden Horseshoe. Prime agricultural areas, including speciality crop areas are intended to be protected for long term agricultural use.

The subject lands are within 120 metres of the Upper Sixteen Mile Creek Wetland Complex, which is identified as a key hydrologic feature. A vegetative protection zone of 30 metres is required to provide a buffer of sufficient width to protect key hydrologic features. Policy 4.2.3.4 states that development or site alteration is not permitted in the vegetation protection zone, with the exception of that described in

policy 4.2.3.1. Policy 4.2.3.1 allows for the expansion of accessory structures provided there is no alternative, and the expansion or alteration in the feature is minimized and, in the vegetation protection zone, is directed away from the feature to the maximum extent possible. The proposed garage meets these criteria.

The proposed garage is within the above-noted setback. However, the Greenbelt Plan offers exemptions for accessory structures provided that the use does not expand into a KHF or VPZ, unless there is no alternative, in which case any expansion shall be limited in scope and kept within close geographical proximity to the existing structure.

The proposed variance does not conflict with the Growth Plan.

Regional Official Plan (Adopted 2022)

The Region's Official Plan designates the lands as within the Speciality Crop Area of the Region's Agricultural Land Base. Regional policies aim to protect agricultural land for the long-term.

The Agricultural System of the Regional Official Plan set out provisions on the types of development that can occur on the subject lands. Accessory structures are permitted within the Specialty Crop Area provided that new municipal services are not required and the use does not expand into a Key Natural Heritage Feature or Key Hydrologic Feature.

The environmental review and considerations of this application are subject to the Transition Policy 3.1.30.3.1 of the Regional Official Plan. Therefore, the comments of this section are based on the Regional Official Plan (ROP) policies that were in effect at the time of the pre-consultation meeting.

As per Region Official Plan Policy 7.B.1.8, Environmental Planning staff typically require the completion of a Constraints Analysis to determine if these features meet the criteria for identification as Core Natural Heritage System features. The property is within the Protected Countryside of the Greenbelt Plan (2007), which identifies wetlands as Key Hydrologic Features (KHF). Regional policies similarly require the completion of an Environmental Impact Study (EIS) when development and/or site alteration is proposed within 50 m of LSW/Significant Woodland. Although the proposed garage is within the setback, the Greenbelt Plan offers an exemption for accessory structures provided that the use does not expand into a KHF or VPZ, unless there is no alternative, in which case any expansion shall be limited in scope and kept within close geographical proximity to the existing structure. As such, Regional staff did not request an EIS.

The Region did not object to the variance. As such, planning staff are of the opinion the proposed variance conforms with the Regional Official Plan.

Town of 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 natural heritage features.

The local Official Plan designates the subject lands 'Specialty Agricultural' according to Schedule 'A.' The purpose of the Specialty Agricultural designation is to implement the Greenbelt Plan and to recognize the importance of croplands. Single detached dwellings are a permitted use in the Specialty Agricultural designation.

Policy B2.1.2 states (among other uses) one single detached dwelling is permitted on a vacant lot of record. Planning staff note that the property is 3,201 m² in land area, is not farmed and is considered to be a rural residential lot at this time.

Planning staff are of the opinion the proposed variance conforms with the Town of Pelham Official Plan.

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

The subject lands are zoned Agricultural (A) in accordance with Town of Pelham Zoning By-law 1136 (1987), as amended. Under the regulations of the Zoning By-law, the minor variance application requests relief from:

- a. **Section 7.4 (c) "Maximum Lot Coverage":** requesting a maximum lot coverage of 14.33% whereas a maximum lot coverage of 10% is permitted.
- b. **Section 7.7 (c) "Maximum Lot Coverage":** requesting a maximum lot coverage of 3.79% for accessory structures whereas a maximum lot coverage of 1% is permitted for accessory structures.

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	Test Response/Explanation
The variance is minor in nature.	<p>Yes. The requested variance is considered to be minor in nature. The increased coverage on the subject property and adjacent properties is minimal given the lot context.</p> <p>The increased coverage amounts to approximately 4.33% of the entirety of the lot. No negative impacts are anticipated on the adjacent properties as adequate distance separates the nearest residential neighbour from</p>

	<p>the location of the addition to the accessory structure. Yard setbacks will be maintained.</p> <p>The accessory structure is setback from street view and the scale and massing have been designed to retain its use and status as secondary/incremental to the primary residential building. The remaining lot area remains available to handle stormwater runoff, the existing septic system, and preserve a rear yard amenity area.</p> <p>Staff are of the opinion that the variance is minor in nature.</p>
The variance is desirable for the development or use of the land.	<p>Yes. The requested variance is considered to be desirable for the appropriate development or use of the land. The increase in lot coverage for the accessory building is desirable as it will permit design flexibility for an addition to an existing accessory structure while maintaining adequate rear yard amenity area.</p> <p>The new location of the structure will have a lesser impact on the floodplain and will be setback further from the locally significant wetland (LSW) than compared with the location of the existing accessory structure which is an overall site improvement from a hazard land and natural heritage perspective.</p> <p>The requested variance is not anticipated to have negative impacts on the streetscape given the placement of the building.</p> <p>Staff is of the opinion that the variance is desirable for the development of the land.</p>
The variance maintains the general intent and purpose of the Zoning By-law.	<p>Yes. The requested variance is considered to maintain the general intent and purpose of the Zoning By-law as the requested increase in coverage is minor and allows for the logical and appropriate placement of the accessory structure.</p> <p>The intent of the maximum lot coverage provision of the By-law is to maintain adequate space for landscaping, leisure, drainage, and to maintain neighbourhood streetscapes and compatibility.</p> <p>The increase in lot coverage for accessory structures is not anticipated to any a negative impact on space for landscaping, leisure, and drainage.</p> <p>Staff are of the opinion the general intent of the Zoning By-law is maintained.</p>

<p>The variance maintains the general intent and purpose of the Official Plan.</p>	<p>Yes. The requested variance is considered to maintain the general intent and purpose of the Official Plan.</p> <p>The requested lot coverage should have no impact on the agricultural viability 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.</p> <p>The proposal is generally consistent in built form, scale, and massing with existing development and the character of the area.</p> <p>Staff is of the opinion that the variance maintains the general intent and purpose of the Official Plan.</p>
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Agency and Public Comments:

On November 4, 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
 - A building permit is required for the proposed detached garage along with a demolition of the existing accessory structure.
- Public Works Department
 - Public Works has no comments.
- Niagara Region Planning and Development Services
 - Regional Planning and Development Services staff is not opposed to the proposed Minor Variance, provided that the accessory structure does not contain any additional fixture units or living space. Town staff should be satisfied that all local requirements and provisions are met.
- Niagara Peninsula Conservation Authority
 - NPCA Staff do not offer objection to the approval of this application.
 - The NPCA's Regulation Mapping illustrates that the subject lands contain Locally Significant Wetland (LSW) and 30 metre buffer associated with the Upper Sixteen Mile Creek Wetland Complex. NPCA Policy generally restricts development and site alteration within the wetland feature, and within the 30 meter setback buffer measured from the wetland edge. Provided the applicant does not locate the replacement structure closer to the wetland boundary, NPCA staff would have no objection to the approval of the minor variance application.
 - Please note that an NPCA Work Permit and an updated site plan noting the location of Erosion and Sediment Controls will be required prior to

commencement of works on site (this includes the demolition of the existing barn in addition to the construction of the new garage).

One (1) public comment was received at the time of writing this report, which is summarized below:

- Briar Kostaskey
 - Concerns with site plan lot lines compared to survey; recommends the completion of a survey and drainage plan.

Planning Staff Comments:

Planning staff note that the property is 3,201 m² in land area, is not farmed and is considered to be a rural residential lot. Adequate area and building setbacks are available to manage the drainage from the new garage on-site without adversely impacting adjacent properties. According to MPAC records the existing accessory structure that will be demolished is 1086sqft in area and the proposed garage will be 1187.88 sqft. The difference in the size of the proposed garage is not so significant to what exists and as such, drainage impacts can be managed on-site.

Based on the analysis given in above sections, staff is of the opinion 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 negatively impact the surrounding neighbourhood with regards to land use incompatibility, traffic, privacy and storm water runoff
- minimizes the impact on the floodplain.

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.

Planning Staff Recommendation:

Planning staff recommend that minor variance file A17/2022P **be approved** subject to the following condition(s):

THAT the applicant:

- Apply for and receive a Building/Demolition Permit for the proposed detached garage. No plumbing or additional living space be installed within the proposed garage.
- Apply and receive NPCA work permit for work in the floodplain and update the site plan drawing illustrating the location of erosion and sediment controls prior to any site works being undertaken.

Prepared and Submitted by:

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Planner

Recommended by:

Barbara Wiens, MCIP, RPP
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