

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

November 21, 2022

Region File: D.17.06.MV-22-0115

Andrew Edwards
Planner
Town of Pelham
20 Pelham Town Square
Pelham, ON, L0S1E0

Dear Mr. Edwards:

Re: Regional and Provincial Comments
Application Type: Minor Variance
Town File: A17/2022P
Owners: [REDACTED]
Agent: Salvatore DeRose
Address: 855 Twenty Road
Town of Pelham

Regional Planning and Development Services staff has reviewed the information circulated with the application for Minor Variance for 855 Twenty Road in the Town of Pelham. The Region received its circulation of the application from the Town on November 4, 2022.

The proposed Minor Variance has been submitted to request relief from the Zoning By-law to permit the construction of an accessory building. The Applicant is requesting relief to permit a maximum lot coverage of 14.33%, whereas the by-law allows 10%; and a maximum lot coverage for accessory structures of 3.79% whereas the by-law allows a maximum lot coverage of 1%, provided the maximum lot coverage of all buildings does not exceed 10%.

The Region provided pre-consultation comments for this proposal on April 13, 2022. Staff note that the new Niagara Official Plan (NOP) was approved by the Province on November 4, 2022 and is now in effect. The comments of this letter will reference the policies of the new NOP where appropriate, unless otherwise specified through transition policies. The following comments are provided from a Provincial and Regional perspective to assist the Committee in their consideration of the proposed Minor Variance.

Provincial and Regional Policies

The subject land is identified as Prime Agricultural Area, and more specifically Specialty Crop Area, under the *Provincial Policy Statement, 2020* (PPS). The land is also within the Specialty Crop Area in the Provincial Agricultural System under the *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 Consolidation* (Growth Plan) and within the Protected Countryside of the *Greenbelt Plan, 2017* (Greenbelt Plan) and more specifically within the Specialty Crop Area – Niagara Peninsula Tender Fruit and Grape Area. The NOP also designates the land as within the Specialty Crop Area.

Provincial and Regional policies aim to protect agricultural land for long-term agricultural use. Specifically, Section 2.3 “Agriculture” of the PPS, Section 4.2.6 of the Growth Plan, Section 3.1 “Agricultural System” of the Greenbelt Plan, and Section 4.1 “The Agricultural System” of the NOP set out provisions on the types of development that can occur on the subject lands. Accessory structures are permitted within 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 matters are reviewed in greater detail below..

Natural Heritage

The environmental review and considerations of this application are subject to the Transition Policy 3.1.30.3.1 of the NOP. 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.

The subject property is adjacent to the Region’s Core Natural Heritage System (CNHS), consisting of the Upper Sixteen Mile Creek Locally Significant Wetland Complex (LSW). Additionally, there is a wooded area adjacent along the rear of the subject property. 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 (Significant Woodland, Significant Wildlife Habitat, Habitat of Endangered or Threatened species, etc).

The property is within the Protected Countryside of the Greenbelt Plan (2007), which identifies wetlands as Key Hydrologic Features (KHF). KHF’s in the Protected Countryside are subject to the natural heritage policies of the Greenbelt Plan. 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 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 garage meets this criteria, and as such there will be no requirements for an NHE.

Staff conducted a site visit on April 8, 2022. Based on that site visit and the scope, nature and location of the garage, staff requested the completion of a Tree Protection Plan (TPP), in lieu of a Constraints Analysis to assess the woodland. The TPP was required to indicate appropriate setbacks and mitigation measures to protect the adjacent wooded area along the rear of the property. However, the new location of the accessory structure is greater than 15 m from the wooded area at the rear of the property. Therefore, due to the scope, nature and location of the proposed development, staff are supportive of removing the requirement for a Tree Preservation Plan (TPP) and offer no requirements for the application.

Private Servicing

Regional Private Sewage System (PSS) staff has reviewed the Minor Variance application for the demolition of an existing accessory structure and construction of a new one. The Region does not have any records of septic at this location. Through contact with the owner, the location of the septic system was identified to the west of the dwelling, and an on-site inspection took place on November 10, 2022 to verify the location and functionality of the existing septic system.

At the time of inspection, a two chamber concrete septic tank was located to the west of the dwelling. The tanks appeared to be in good working order and showed no signs of defects. The existing leaching bed was identified to be west of the dwelling, and after a walk through it was determined there was no evidence that the system was not functioning properly. Therefore, the system in a whole was determined to be in good working order.

Due to the constraints of the lot, there were initial concerns with the addition of an accessory structure to the property. After review and further clarification from the on-site inspection, it was determined that the new location of the structure will be improving the site's building envelope for a new septic system should one ever be needed in the future, and to ensure long-term sustainable servicing of the lot. PSS staff would like to note that the area to the west of the proposed garage should be kept clear from any additional structures (including driveways) in case this space needs to be used for a new septic system. Therefore, Regional PSS staff does not object to the proposed Minor Variance provided the accessory structure does not contain any additional fixture units or living space.

Archaeological Potential

Based on Regional staff's review of the Province's Criteria for Evaluating Archaeological Potential, the property exhibits a high potential for the discovery of archaeological resources due to its proximity within 300 metres of multiple registered archaeological sites and natural watercourse features. Typically, the presence of these features triggers the need for any development that requires ground disturbance below top soil level to undertake an archaeological assessment. At the pre-consultation meeting, it was requested that the Applicant provide further details of the accessory structure's foundation to assist with determining whether an archaeological assessment would be required or not.

Regional staff has reviewed the submitted materials which indicates that the proposed accessory structure will be constructed with a slab-on-grade foundation. As such, Region staff does not require the completion of an archaeological assessment for the proposed application. The Applicant is advised that the property may not be free and clear of archaeological resources, and that any future Planning Act applications for the property may require archaeological assessment.

Regional staff defer to the Town staff with respect to ensuring that any requirements of the Town's Archaeological Master Plan are met.

Conclusion

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.

Should you have any questions related to the above comments, please feel free to contact me at Nicholas.Godfrey@niagararegion.ca or Pat Busnello, Manager, Development Planning, at Pat.Busnello@niagararegion.ca.

Best regards,



Nicholas Godfrey, MCIP, RPP
Development Planner

cc: Pat Busnello, MCIP, RPP, Manager, Development Planning, Niagara Region
Matteo Ramundo, Private Sewage Systems Inspector, Niagara Region
Alex Morrison, MCIP, RPP, Senior Planner, Niagara Region