



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

Wednesday, January 11, 2023

**Minor Variance Application: A2-2023P**

**Municipal Address: 261 Canboro Road**

**Legal Description: Part of Lot 5, Concession 8, Being Part 3 on Plan 59R-8085**

**Roll number: 2732 020 010 11210**

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**Nature and Extent of Relief/ Permission Applied for:**

The subject land is located on the north side of Canboro Road, lying east of Effingham Street, legally described above, and known locally as 261 Canboro Road in the Town of Pelham. The subject lands are approximately 4,624 square metres (0.4624 hectares) in area and currently support a single detached dwelling, accessory structure, and private septic system.

The subject land is zoned Agricultural (A) in accordance with Pelham Zoning By-law 1136(1987), as amended. Application is made to construct a 103.63 m<sup>2</sup> (1,115.5 ft<sup>2</sup>) rear addition to an existing single detached dwelling. The variance seeks relief from:

- a. **Section 7.4(f) "Minimum Side Yard"**: Seeking a minimum side yard of 4.38 metres whereas a minimum of 9.0 metres is required.

**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.

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 lands are within the Provincial Agricultural System and are considered a “Speciality Crop Area.” 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 subject lands have recently undergone extensive ground disturbance. Accordingly, an archaeological assessment will not be required.

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 4,624 m<sup>2</sup> in land area, is not farmed and is considered to be a rural residential lot at this time.

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

#### Greenbelt Plan (2017)

The subject lands are located within the protected country designation of the Greenbelt Plan.

The subject lands are within the Provincial Natural Heritage System of the Greenbelt Plan, which identifies this feature as a Key Natural Heritage Feature (KNHF) and is subject to the natural heritage policies of the Greenbelt Plan.

Greenbelt Plan policy 3.2.5.5 requires the completion of a Natural Heritage Evaluation when new development and/or site alteration is proposed within 120 metres of a Key Natural Heritage Feature. Greenbelt policy 3.2.5.7 requires a minimum 30 metre vegetative protection zone (VPZ) adjacent to key natural heritage features. Greenbelt Plan policy 4.5.4 permits expansions to existing buildings and structures provided that the use does not expand into the KNHF or the 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 addition fulfills the intent of these policies, and as such Town and Regional staff are supportive of waiving the requirement for a Natural Heritage

Evaluation. The proposed addition is within the existing development footprint, and therefore is not anticipated to negatively impact the significant woodland. The proposed addition is connected to the existing dwelling and is relatively small in scale given the lot context.

Staff are of the opinion that the proposed variance does not conflict with 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 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.

Staff are of the opinion the proposed variance does not conflict with the Growth Plan.

#### Regional Official Plan (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 subject lands are impacted by the Region's Core Natural Heritage System (CNHS), consisting of Significant Woodland. The subject lands are within the Provincial Natural Heritage System of the Greenbelt Plan, which identifies this feature as a Key Natural Heritage Feature (KNHF) and is subject to the natural heritage policies of the Greenbelt Plan.

The Agricultural System of the Regional Official Plan set out provisions on the types of development that can occur on the subject lands.

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 lands are designated Speciality Agricultural per Schedule 'A' of the Town's Official Plan. 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 4,624 m<sup>2</sup> in land area, is not farmed and the lot is a rural residential lot.

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 Pelham Zoning By-law 1136 (1987), as amended, which permits one single detached dwelling on one lot. Under the regulations of the Zoning By-law, the minor variance application requests relief from:

- a. **Section 7.4(f) "Minimum Side Yard"**: Seeking a minimum side yard of 4.38 metres whereas a minimum of 9.0 metres is required.

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.</p> <p>The reduced setback is a reduction of approximately 4.62 metres. The setback is not anticipated to have any negative impacts on the streetscape and is generally in keeping with the surrounding neighbourhood. The addition will not be visible from the street. A row of mature conifers is located along the eastern property line which are to be maintained and will screen the proposed addition.</p> <p>The use of the lands will remain appropriate and compatible with the surrounding area, which is characterized by single detached dwellings on rural residential lots.</p> <p>Staff are of the opinion that the proposed variance is minor in nature.</p>

<p>The variance is desirable for the development or use of the land.</p>	<p>Yes. The requested variance is considered to be desirable for the appropriate development or use of the land.</p> <p>The variance will facilitate a rear yard addition to the existing dwelling. The scale of the addition is in keeping with the character of the neighbourhood and will facilitate the development that meets the needs of the property owners. As such the variance is considered desirable for the development of the land. Further, the construction of the addition will not necessitate any tree removal on the subject lands.</p> <p>Staff is of the opinion the requested variance is desirable for the development or use of the land and will improve the functionality of the dwelling.</p>
<p>The variance maintains the general intent and purpose of the Zoning By-law.</p>	<p>Yes. The requested variance is considered to maintain the general intent and purpose of the Zoning By-law.</p> <p>The interior side yard setback is intended to maintain access to side yards, provide adequate distance between dwellings, and provide to provide adequate room for drainage.</p> <p>The variance is necessary to provide adequate space for the addition. The west side of the dwelling maintains a large setback to the western property line. The setback provides for adequate rear yard access and space should the existing septic system require an expansion. The neighbouring property to the east maintains a large setback to the property line, and as such no issues of compatibility are anticipated.</p> <p>Staff are of the opinion the proposed variance maintains the general intent and purpose of the Zoning By-law.</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 reduced side yard setback 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. The remaining lot area remains available to handle stormwater runoff, the existing septic system, and preserve a rear yard amenity area.</p>

	<p>The proposed built form of the addition is generally consistent in scale, and massing with existing development and the character of the residential 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 December 14, 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 will be required for this proposed addition, should the variance be granted.
- Public Works Department
  - No comments.
- Niagara Region Planning and Development Services
  - Regional staff are of the opinion that the proposed use is consistent with the PPS and conforms to Provincial and Regional policies.
  - Environmental Planning offers no requirements and no objection to the proposed minor variance application.
  - Based on a review of aerial photography, it appears that the portion of the property that will be impacted by the proposed development has been subject to recent, intensive and extensive ground disturbance as a result of the construction of the existing dwelling and in-ground pool. Accordingly, Regional staff will not require an archaeological assessment with the application.
  - Based on the information submitted for the minor variance application and subsequent correspondence, Regional PSS staff has determined that the proposed addition is consistent with the approved septic permit. As such, we have no objections to the proposed application.
  - Regional Planning and Development Services staff is not opposed to the development permit application as proposed, subject to the satisfaction of any local requirements.

One (1) public comment was received and is summarized as follows:

- Jim and Linda Addario
  - No objection to the variance as requested; stated they are aware of similar variance requests that have been approved in the area.

### **Planning Staff Comments:**

Planning staff note that the property is approximately 4,624 m<sup>2</sup> in land area, is not farmed and is a rural residential lot. Adequate area and building setbacks are available to manage the drainage from the addition on-site without adversely impacting adjacent properties. The existing tree line will be maintained and the neighbouring property to the east maintains a generous setback, and as such visual impacts are minimized.

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.

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 A2/2023P **be approved** subject to the following condition(s):

**THAT** the applicant:

- Apply for and receive a building permit for the proposed addition.

### **Prepared and Submitted by:**

Andrew Edwards, BES  
Planner

### **Recommended by:**

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