



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

Monday, April 03, 2023

Minor Variance Application: A8/2023P

Municipal Address: 337 Canboro Road

Legal Description: Part of Lot 6, Concession 8

Roll number: 2732 020 013 05000

Nature and Extent of Relief/ Permission Applied for:

The subject land is located on the north side of Canboro Road, lying west of Effingham Street, being Part of Lot 6, Concession 8 in the Town of Pelham, and known locally as 337 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. Application is made for relief, to construct a detached accessory structure (2-car garage and storage building), from:

- a) **Section 7.7(a) "Maximum Lot Coverage (Accessory Structure)"** – to permit a maximum lot coverage of 1.16% whereas the by-law allows 1% provided the maximum lot coverage of all buildings does not exceed 10%; and,
- b) **Section 7.7(b) "Minimum Side Yard and Rear Yard (Accessory Structure)"** – to permit a minimum interior side yard setback of 2.06m whereas the by-law requires a minimum side yard setback of 3.0m.

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." Permitted uses, among others, include agricultural/agricultural related uses, limited residential development and home occupations.

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 11,539.076 m² (1.15 ha) in land area and is a rural residential lot.

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

Greenbelt Plan (2017)

The lands are in the "Niagara Peninsula Tender Fruit and Grape Area" designation 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.

Planning staff note that the property is 11,539.076 m² (1.15 ha) in land area and is an existing rural residential lot that is not changing in use.

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 specialty 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 (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 subject property is impacted by the Region's Natural Environment System, consisting of other woodlands. Policy 3.1.9.7 of the NOP requires the completion of an Environmental Impact Study when development or site alteration is proposed within 50 m of other woodland. The proposed detached garage is outside of the above-noted setback. As such, Regional staff did not offer objection to the minor variance from a natural environmental standpoint.

As such, Planning staff are of the opinion the proposed variance conforms to the Niagara Region 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.

Planning staff note that the property is 11,539.076 m² (1.15 ha) in land area and is 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. The existing rural residential use on a lot of record is permitted and may continue.

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 land is zoned Agricultural ("A") in accordance with Pelham Zoning By-law 1136(1987), as amended. Application is made for relief, to construct a detached accessory structure (2-car garage and storage building), from:

- a) **Section 7.7(a) "Maximum Lot Coverage (Accessory Structure)"** – to permit a maximum lot coverage of 1.16% whereas the by-law allows 1% provided the maximum lot coverage of all buildings does not exceed 10%; and,
- b) **Section 7.7(b) "Minimum Side Yard and Rear Yard (Accessory Structure)"** – to permit a minimum interior side yard setback of 2.06m whereas the by-law requires a minimum side yard setback of 3.0m.

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 variances are 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 0.16% of the entirety of the lot. No negative impacts are anticipated on the adjacent properties as adequate distance separates the nearest residential neighbour from the location of the addition to the accessory structure. Adequate 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 variances are minor in nature and the impact of the requested variances are minor.</p>
The variance is desirable for the development or use of the land.	<p>Yes. The requested variances are 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 while maintaining adequate rear yard amenity area.</p> <p>The requested variances are not anticipated to have negative impacts on the streetscape given the placement of the accessory structure setback from the street.</p> <p>Staff is of the opinion that the variances are desirable for the development of the land.</p>
The variance maintains the general intent and	Yes. The requested variances are considered to maintain the general intent and purpose of the Zoning By-law as the

<p>purpose of the Zoning By-law.</p>	<p>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 have any a negative impact on space for landscaping, leisure, and drainage.</p> <p>The interior side yard setback is intended to maintain access to side yards, provide adequate distance between dwellings, and provide adequate room for drainage. The setback provides for adequate rear yard access and space should the existing septic system require an expansion.</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 variances are considered to maintain the general intent and purpose of the Official Plan.</p> <p>The requested lot coverage and interior 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.</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 variances maintain the general intent and purpose of the Official Plan.</p>

Agency and Public Comments:

On March 1st, 2023, 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

- No comment.
- Public Works Department
 - No comments.
- Niagara Region
 - According to the Provincial Policy Statement, 2020 (PPS), the subject property is located within a Prime Agricultural Area, and more specifically within a Specialty Crop Area. The subject property is designated as Protected Countryside Area within the Greenbelt Plan, 2017 (Greenbelt Plan) and Prime Agricultural Area within A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 (Growth Plan). The Niagara Official Plan, 2022 (NOP) designates the lands 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, Chapter 4 'Competitive Region' of the NOP, and Section 3.1 'Agricultural System' of the Greenbelt Plan set out provisions on the types of development that can occur on the subject lands. According to Policy 4.1.2.2 of the NOP, single detached dwellings and accessory structure are permitted on existing lots of record in specialty crop areas, provided they were zoned for such or permitted through other regulation as of December 16, 2004.
 - As such, the application is consistent with and conforms to Provincial and Regional policies subject to the comments below.
 - The portion of the subject property, including the location of the proposed accessory structure, is located within the Area of Archaeological Potential as identified in Schedule 'K' of the NOP. Regional staff note that the Town has a Heritage Master Plan and, as such, town staff should be satisfied that any local archaeological provisions / requirements are addressed.
 - In addition, Regional staff recommend that the following standard archaeological advisory clause is included as a condition of the building permit to protect for any archaeological resources that may be encountered during construction:
 - *"Should deeply buried archaeological remains/resources be found during construction activities, all activities impacting archaeological resources must cease immediately, and the proponent must notify the Archaeology Programs Unit of the Ministry of Citizenship and Multiculturalism (416-212-8886) and contact a licensed archaeologist to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists."*
 - *In the event that human remains are encountered during construction, all activities must cease immediately and the local police as well as the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, the Ministry should also be notified*

to ensure that the site is not subject to unlicensed alterations which would be a contravention of the Ontario Heritage Act.”

- The subject property is impacted by the Region’s Natural Environment System, consisting of other woodlands. Policy 3.1.9.7 of the NOP requires the completion of an Environmental Impact Study (EIS) when development or site alteration is proposed within 50 m of other woodland. The proposed detached garage is outside of the above-noted setback. As such, Regional staff offer no objection to the minor variance from an environmental standpoint.
- Regional Private Sewage System (PSS) staff found no record for the existing sewage system servicing the dwelling. The existing septic tank was exposed west of the dwelling and the liquid level was found to be at a good working level during our site inspection on March 10, 2023. At the time of inspection there appeared to be no visible defects with the septic system. Further confirmation was provided to us indicating the septic bed is located south of the septic tank; however, the septic bed may be partially located under the existing gravel driveway. Please note, any replacement sewage system would be required to meet the minimum 5 m setback to the driveway in the future. No living space, plumbing fixtures or bedrooms are permitted in the proposed garage. In addition, the property contains enough usable land for a replacement system when required in the future.
- Therefore, based on the information provided, PSS staff has no objection provided no bedrooms, living space or plumbing fixture are constructed within the garage.
- Regional Planning and Development Services staff does not object to the proposed Minor Variance application, as it is consistent with and in conformity to Provincial and Regional policies. Town staff should be satisfied that any local requirements for the proposal are met.

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

Planning Staff Comments:

Planning staff note that the property is 11,539.076 m² (1.15 ha) in land area and is 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.

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.

The applicant is advised of the potential for archaeological resources and the requirement to notify the appropriate government ministries should archaeological remains/resources or human remains be encountered during construction.

Planning Staff Recommendation:

Planning staff recommend that minor variance file A8/2023P **be approved** subject to the following condition(s):

THAT the applicant:

- That all necessary building permits be acquired prior to construction commencing, to the satisfaction of the Chief Building Official.

Prepared and Submitted by:

Andrew Edwards, BES
Planner

Recommended by:

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