

Committee of Adjustment AGENDA

CofA 04/2023

April 3, 2023

4:00 pm

Meridian Community Centre - Accursi A and B

100 Meridian Way

Fonthill, ON

L0S 1E6

During the ongoing global pandemic, Novel Coronavirus COVID-19, the Town of Pelham Committee of Adjustment will convene meetings in compliance with Provincial directives. Attendance by all participants will be electronic. Public access to meetings will be provided via Livestream www.youtube.com/townofpelham/live and subsequent publication to the Town's website at www.pelham.ca.

Pages

1. **Attendance**
2. **Call to Order, Declaration of Quorum and Introduction of Committee and Staff**
3. **Land Recognition Statement**

We begin this meeting by acknowledging the land on which we gather is the traditional territory of the Haudenosaunee and Anishinaabe peoples, many of whom continue to live and work here today. This territory is covered by the Upper Canada Treaties and is within the land protected by the Dish With One Spoon Wampum agreement. Today this gathering place is home to many First Nations, Metis, and Inuit peoples and acknowledging reminds us that our great standard of living is directly related to the resources and friendship of Indigenous people.
4. **Approval of Agenda**
5. **Disclosure of Pecuniary Interest and General Nature Thereof**
6. **Requests for Withdrawal or Adjournment**

7.	Resolution required under the Planning Act to appoint Assistant Secretary-Treasurer	
8.	Applications for Minor Variance	
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	1. Town of Pelham Planning	
	2. Town of Pelham Public Works	
	3. Town of Pelham Building	
	4. Niagara Region	
	5. Jonathan Tucker	
9.	Applications for Consent	
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	2. Town of Pelham Public Works	
	3. Town of Pelham Building	
10.	Adjournment	



**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

Memo

To: Andrew Edwards, Planner

CC: Jason Marr, Director of Public Works; Barb Wiens, Director of Planning and Development; Derek Young, Manager of Engineering; Nicholas Palomba, Engineering Technologist; Lucas Smith, Engineering Technologist

From: Gimuel Ledesma, Engineering Technologist

File No: A8/2023P

Date: March 4, 2023

RE: Minor Variance - 337 Canboro Road

The Public Works Department has reviewed the submitted documentation regarding the proposed minor variance of 337 Canboro Road. 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:

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

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.

Public Works offer the following comments:

No Comments

Public Works offer the following conditions:

No Comments

To: Sarah Leach

Cc: Andrew Edwards

From: Alex Foisey, Building Intake/Zoning Technician

Date: March 22, 2023

Subject: Building Comments on Applications to the Committee of Adjustment for
337 Canboro Road, Pelham

File Number: A8/2023P

Comment:

- A building permit will be required for the proposed garage

Respectfully,
Alex Foisey

Planning and Development Services

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7
(905) 980-6000 Toll-free: 1-800-263-7215

Via Email

March 22, 2023

File: D.16.06.MV-23-0018

Sarah Leach, BA
Secretary Treasurer of the Committee of Adjustment
Town of Pelham
20 Pelham Town Square
Fonthill, ON, L0S 1E0

Dear Ms. Leach:

**Re: Regional and Provincial Comments
Minor Variance Application
Town File: A8/2023P
337 Canboro Road
Town of Pelham**

Regional Planning and Development Services staff has reviewed the information circulated for the Minor Variance application for 337 Canboro Road in the Town of Pelham ("subject property"). The Region received its circulation from the Town on March 1, 2023.

The Applicant is proposing the following variances to facilitate the construction of a detached accessory structure (two car garage and storage building):

- A maximum lot coverage of 1.16%, whereas the by-law allows 1% provided the maximum lot coverage of all building does not exceed 10%, and
- A minimum interior side yard setback of 2.06 m whereas the by-law requires a minimum side yard setback of 3 m.

The following comments are provided from a Provincial and Regional perspective to assist the Town in its consideration of this application.

Provincial and Regional Policies

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.

Archaeological Resources

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 in 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."

Environmental Comments

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

March 22, 2023

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.

Private Servicing

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.

Conclusion

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.

Please contact the undersigned at Carling.MacDonald@niagararegion.ca should you have any questions related to the above comments. Please send the Notice of Committee's Decision on this Application when available.

Best Regards,



Carling MacDonald
Development Planner

cc. Pat Busnello, MCIP, RPP, Manager, Development Planning, Niagara Region

From: [Jonathan Tucker](#)
To: [Sarah Leach](#); [clerks pelham](#)
Subject: Notice of public hearing - File number A8/2023P - 337 Canboro Rd. Pelham
Date: Tuesday, March 21, 2023 11:36:46 AM

To whom it concerns,

I am writing in to provide my support for File Number: A8/2023P at 337 Canboro Rd. Pelham.
I hope the applicant is granted permission to construct the accessory structure as they wish.

I reside at [REDACTED] Hwy 20 Fenwick, ON L0S 1C0

thank you

Jonathan Tucker, [REDACTED]
Tucker Homes
[REDACTED] Hwy 20 W
Fenwick, ON L0S 1C0





Community Planning and Development Department
Committee of Adjustment
Monday, April 03, 2023

Consent Application: B4-2023P

Municipal Address: None Assigned

Legal Description: Part Lot 12, Concession 14 (Property directly north of 606 River Road), Pelham (Part 1 Sketch)

Roll number: 2732 010 018 12900

Location of Lands and Purpose of Application:

The subject parcel, shown as Part 1 on the attached sketch, has a frontage of 6.1m on the north side of River Road, lying west of Cream Street, being Part Lot 12, Concession 14 in the Town of Pelham.

Part 1 contains an existing natural gas well and pipeline running from the residence on Part 3 (known as 606 River Road), across River Road, to Part 2. Application is made for consent to convey an 822 m² easement in perpetuity over Part 1, to the benefit of Part 3 (606 River Road) for continued use of an existing gas well. Parts 1 and 2 are to be retained for continued agricultural use.

The easement is requested to maintain the use of the gas well and pipeline in the event the Owner sells Parts 1 and 2.

Applicable Planning Policies:

Planning Act (Consolidated April 2022)

Section 53 (1) states a landowner 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 Committee of Adjustment has delegated authority to approve consents.

Section 51(24) of the Planning Act sets out various criteria to be considered by an approval authority before granting consent to convey an interest in land.

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.

The PPS designates the subject lands as Prime Agricultural Land. Section 2.1 of the PPS states that natural features and areas shall be protected for the long term.

Section 2.3.4.1 of the Provincial Policy Statement (PPS) deals with Lot Creation and Lot Adjustments, specifically for legal or technical reasons (see attached). Section 2.3.4.2 states: Lot adjustments in prime agricultural areas may be permitted for legal or technical reasons. Legal or technical reasons are defined as severances for purposes such as easements, corrections of deeds, quit claims, and minor boundary adjustments, which do not result in the creation of a new lot. The application has the effect of creating an easement for continued use of an existing gas well and pipeline. No new lot is proposed to be created. As such, the easement is considered an application for a legal or technical reason.

Section 2.6 of the PPS requires the conservation of archaeological resources. An archaeological assessment would be required to ensure that any potential archaeological resources have been conserved. As no site alteration is proposed as part of the application, planning staff will waive the requirement for an archeological assessment.

Planning staff are of the opinion the proposed severance is consistent with the PPS.

Greenbelt Plan (2017)

The lands are outside of the Greenbelt Plan area, and accordingly the policies of the Greenbelt Plan do not apply.

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 Growth Plan contains various guiding principles which are intended to guide decisions of how land is developed. The guiding principles include building compact, vibrant, and complete communities, managing and encouraging development in appropriate locations and optimizing the use of existing infrastructure.

The lands are within the Prime Agricultural 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.

Planning staff are of the opinion the proposed consent conforms with the Growth Plan.

Niagara Region Official Plan (2022)

The property is designated as Prime Agricultural Area per Region of Niagara Official Plan Schedule 'F,' Agricultural Land Base. Agriculture, agriculture-related uses, on-farm diversified uses, single dwellings, existing uses, and accessory structures are permitted. Minor lot adjustments or boundary adjustments are permitted, including easements.

As such, Planning staff are of the opinion the proposed consent conforms to 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 our natural heritage features.

The OP designates the lands as Good General Agricultural per Schedule 'A.' Lands designated Good General Agricultural are those that are identified as being within a prime agricultural area as identified by the Niagara Region Policy Plan. The purpose of the Good General Agricultural designation is to protect and maintain land suitable for agricultural production and permit uses which support and/or are compatible with agriculture. The principal use of land in the Good General Agricultural designation shall be agriculture. Single detached dwellings are also a permitted use. All uses in the Good General Agricultural designation shall be designed, located, and managed to not detract from the primary role of the agricultural area as set out in Policy B2.1.1 of the Official Plan.

The Town's Official Plan policies related to consents do not explicitly speak to the granting of easements. However, the PPS states lot adjustments in prime agricultural areas may be permitted for legal or technical reasons. The subject application can be considered for "legal purposes" as the purpose of the application is to establish an easement for an existing gas well and pipeline.

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 that is maintained on a year round basis;
 - ✓ Unchanged. Access will remain from River Road.
- b) Will not cause a traffic hazard as a result of its location on a curve or a hill;
 - ✓ Unchanged.

- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
✓ Unchanged.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
✓ Yes, Part 3 will be serviced by private water and septic systems.
- e) Will not have a negative impact on the drainage patterns in the area;
✓ Unchanged.
- f) Will not affect the develop ability 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 core natural heritage features are identified on Parts 1 and 2.
- h) Conforms with Regional lot creation policy as articulated in the Regional Policy Plan; and,
✓ Yes.
- i) Complies with the appropriate provincial Minimum Distance Separation Formulae, where applicable.
✓ N/A

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

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

Parts 1 and 2 are zoned Agricultural (A) in accordance with Pelham Zoning By-law 1136 (1987), as amended. No new zoning permissions are necessary to facilitate the application.

Agency and Public Comments:

On March 3, 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 comments.
- Public Works Department
 - Updated legal survey indicating location of registered easement. Please note that this easement should be registered.
- Ministry of Natural Resources and Forestry
 - The MNRF has indicated that they have no concerns with the application so long as the well operator has access rights to operate the gas well.

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

Planning Staff Comments:

A pre-consultation meeting was held with the applicant of the property and staff from the Town and Niagara Region Planning and Development Services staff on December 1, 2022, to discuss the subject application. In addition, a consent sketch and cover letter were provided in support of the proposed development.

The proposed easement over Part 1 for the benefit of 3 is for the continued use and maintenance of a gas well and gas line. The dwelling on Part 3 is serviced by the gas well and gas line on Part 1. The proposed easement will provide the long-term protection of access to the gas well and gas line for Part 3 if Part 1 and 2 are ever sold. The proposed easement is logical and represents good land use planning.

Entering into an encroachment agreement for the easement over River Road for the private gas line is a recommended condition of consent. The Town has no record of an encroachment agreement for the existing gas line under the roadway. The encroachment agreement protects the owner and will give the owner and future owners of the property the legal right to have and access the private gas line on the public road property in perpetuity and will also ensure that when the Town does any work in the roadway, it is aware of the presence of a private gas line in this location.

Planning Staff Recommendation:

Planning staff recommend that consent file B4/2023P **be approved** subject to the following condition(s):

THAT the applicant:

- That the Owner enter into an encroachment agreement with Town for the gas line over River Road.
- The registered reference plan includes the identification of the Part of the gas line under the public roadway.
- That the Secretary-Treasurer be provided with a registrable 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.
- That the final certification fee of \$423, 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 and Submitted by:

Andrew Edwards, BES
Planner

Recommended by:

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

Memo

To: Sarah Leach, Deputy Clerk

CC: Jason Marr, Director of Public Works; Barb Wiens, Director of Planning and Development; Derek Young, Manager of Engineering; Nicholas Palomba, Engineering Technologist; Lucas Smith, Engineering Technologist

From: Gimuel Ledesma, Engineering Technologist

Date: March 7 2023

File No: B4/2023P

RE: Consent— Part Lot 12, Concession 14 - Property directly north of 606 River Road

The Public Works Department has reviewed the submitted documentation regarding the proposed minor variance of Part Lot 12, Concession 14 - Property directly north of 606 River Road.

The subject parcel, shown as Part 1 on the attached sketch, has a frontage of 6.1m on the north side of River Road, lying west of Cream Street, being Part Lot 12, Concession 14 in the Town of Pelham.

Application is made for consent to convey an easement in perpetuity over Part 1, to the benefit of Part 3 (606 River Road) for continued use of the existing gas well. Parts 1 and 2 are to be retained for continued agricultural use.

Public Works offer the following comments:

- No Comments

Public Works offer the following conditions:

- That the applicant provides a legal survey indicating the location of the registered easement.

To: Sarah Leach

Cc: Andrew Edwards

From: Alex Foisey, Building Intake/Zoning Technician

Date: March 22, 2023

Subject: Building Comments on Applications to the Committee of Adjustment for
608 River Road, Pelham

File Number: B4/2023P

Comment:

- Building Department has no comment.

Respectfully,
Alex Foisey