



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

Tuesday, September 05, 2023

Consent Application: B12-2023P

Municipal Address: 305 Canboro Road
Legal Description: Part Lot 6, Concession 8
Roll number: 2732 020 013 03500

Location of Lands and Purpose of Application:

The subject parcel, shown as Part 1 on the attached sketch, has a frontage of 63.55m on the north side of Canboro Road, lying west of Effingham Street being Part Lot 6, Concession 8 in the Town of Pelham.

The lands have 63.55 metres of frontage on Canboro Road and a combined frontage of 274.22 metres on Effingham Street. The lands have an area of approximately 3.37 hectares (8.32 acres). Part 1 currently contains an existing single detached dwelling and various accessory structures. Part 2 are being used for agricultural purposes and contain two (2) agricultural structures. Each Part has an existing independent driveway access.

Application is made for consent to convey 4,791.7 square metres of land (Part 1), for continued residential use of 305 Canboro Road. Part 2 is to be retained for continued agricultural use. No new construction is proposed as part of the application.

Note the subject lands were previously subject to an application for consent (B9-2014P). The Town's Planning Report recommended the consent not be granted based on a review of proposal's alignment with applicable planning legislation which found the consent as proposed was not in compliance/conformity. The Committee of Adjustment granted the application. Consequently, the Town appealed the decision. The appeal was heard by the Ontario Municipal Board in February 2015 (Case No. PL141077). The Board ordered that the appeal was allowed and the consent was not granted.

Since such time, the planning context for the lands has changed. Ridgeville is now included as a Rural Settlement Area in the Greenbelt Plan and Niagara Region Official Plan has defined the boundary of the rural settlement area of the hamlet of Ridgeville. The zoning by-law permits the uses on the subject properties (existing single detached dwelling and agricultural on the retained lot). The lands within the rural settlement area can now be considered for consent. Please refer to planning analysis in following sections below.

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.

- a) The development's effect on provincial matters of interest;
 - a. Refer to PPS and Growth Plan analysis in sections below.
- b) Whether the proposed subdivision is premature or in the public interest;
 - a. The application is not considered premature and is able to uphold public interest.
- c) Whether the plan conforms to the Official Plan and adjacent plans of subdivisions, if any;
 - a. See Official Plan discussion below.
- d) The suitability of the land for such purposes;
 - a. Refer to analysis in Planning Analysis sections below.
- f) The dimensions and shapes of the proposed lots;
 - a. The dimensions and shapes of the lots following the boundary adjustment are appropriate.
- h) Conservation of natural resources and flood control;
 - a. See planning analysis sections below.
- i) The adequacy of utilities and municipal services;
 - a. Servicing is available to adequately service the lands. No development is proposed.
- j) The adequacy of school sites;
 - a. Available nearby. School Boards did not comment on application.

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 Part 2 of 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.

According to the Provincial Policy Statement "Part 1" is located outside the Specialty Crop Area and is designated as a Settlement Area under the PPS. Policy 1.1.3.1 states

that settlement areas shall be the focus of growth and development. Accordingly consents in the rural settlement area of the hamlet can be considered.

Planning staff are of the opinion the requested consent is consistent with the PPS.

Greenbelt Plan (2017)

The Greenbelt Plan, 2017 ("Greenbelt Plan") designates the subject lands as Protected Countryside. According to the Provincial Policy Statement, 2020 ("PPS") and Niagara Official Plan, 2022 ("NOP"), "Part 1" is located outside the Specialty Crop Area and is designated as a Settlement Area under the PPS and Rural Settlement Area (otherwise known as a hamlet) under the NOP.

The Greenbelt Plan designates Ridgeville as a 'Hamlet'. Hamlets are also included within the definition for 'Settlement Areas' and are located within the Protected Countryside.

Policy 1.4.2 states that the policies of the Greenbelt Plan generally do not apply to Towns/Villages and Hamlets. Official Plans will continue to govern their land use based on policy direction of the Growth Plan.

Policy 4.6.1 e) states that lot creation is discouraged but minor lot adjustments or boundary additions may be permitted, provided they do not create a separate lot for a residential dwelling in prime agricultural areas, including specialty crop areas, and there is no increased fragmentation of a key natural heritage feature or key hydrologic feature. In order to ensure that a separate lot for a residential dwelling is created on that portion of the lands considered to be specialty crop, it is recommended that Part 2 be zoned to an Agricultural Purposes Only (APO) Zone as a condition of consent approval.

Planning staff are of the opinion the requested consent is consistent 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 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.

Part 1 of the lands are considered to be within the settlement area.

Part 2 of 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. The agricultural use of Part 2 is not proposed to change as the lands are intended to be retained for their existing agricultural use according to the application. To maintain the intent of the Growth Plan that the to protect the agricultural use of the agricultural portion the lands, it is recommended that Part 2 rezoned to an Agricultural Purposes Only (APO) Zone as condition of consent approval.

Accordingly, Staff is of the opinion that the proposed boundary adjustment is in keeping with the policies of the Growth Plan.

Niagara Region Official Plan (2022)

The Greenbelt Plan, 2017 ("Greenbelt Plan") designates the subject lands as Protected Countryside. According to the Provincial Policy Statement, 2020 ("PPS") and Niagara Official Plan, 2022 ("NOP"), "Part 1" is located outside the Specialty Crop Area and is designated as a Settlement Area under the PPS and Rural Settlement Area (otherwise known as a hamlet) under the NOP. NOP Policy 2.2.3.2 states that Rural Settlement Areas shall be the focus of development outside of the urban area boundaries. The lands identified as "Part 2" are identified as Specialty Crop Area under the PPS and NOP.

NOP Policy 1.6.6.4 states that lot creation on individual on-site sewage services is only permitted if there is confirmation of sufficient reserve sewage system capacity for hauled sewage. Additionally, Regional policies require that new lots have 1 acre of usable area to support a replacement septic system/spare septic area.

Regional staff did not object as the proposal does not conflict with Provincial or Regional interests and planning policy.

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 Official Plan designates the property Specialty Agricultural, per Schedule 'A.' The purpose of the Specialty Agricultural designation is to implement the Province of Ontario's Greenbelt Plan and recognize the importance of specialty croplands in the Provincial and Regional economies. The principle use of land in the Specialty Agricultural designation shall be for the production of the full range of specialty crops identified in the Greenbelt Plan. Part 2 of the lands is to be retained for continued agricultural use and the creation of new lots is generally not permitted and will not create as separate lot for a residential dwelling. To ensure that a residential dwelling is not permitted on Part 2, it is recommended that Part 2 be rezoned to an Agricultural Purposes Only (APO) Zone.

Notwithstanding Part 1 continues to be designated Specialty Agricultural per the Town's Official Plan, Part 1 is located outside the Specialty Crop Area and is now designated as a Settlement Area under the PPS and Rural Settlement Area (otherwise known as a hamlet) under the NOP. The Town's Official Plan will be revised to include the hamlet boundary of Ridgeville into the Rural Settlement designation as part of the Official Plan review and update process. It is noted the use of the lands would be in conformity with the Rural Settlement policies of the Town's Official Plan. Additionally, the current zoning of Part 1 as Village Commercial reflects the lands as being located within a settlement area.

Any future Village Commercial development on the lands would be subject to site plan approval and require a site plan agreement with the Town in accordance with the Site Plan Control By-law.

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;
 - ✓ Both Parts front on publicly accessible roads that are maintained on a year-round basis. Each Part has an existing independent driveway access.
- b) Will not cause a traffic hazard as a result of its location on a curve or a hill;
 - ✓ Unchanged. Driveway accesses to each Part are existing.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
 - ✓ Unchanged. Existing uses are to continue and Part 2 is recommended to be rezoned to an Agricultural Purposes Only (APO) Zone.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
 - ✓ Unchanged.
- e) Will not have a negative impact on the drainage patterns in the area;
 - ✓ Yes. Town staff will require a comprehensive lot grading and drainage plan demonstrating that storm water runoff will not negatively impact nor rely upon neighboring properties.
- f) Will not affect the develop ability of the remainder of the lands, if they are designated for development by this Plan;
 - ✓ Part 1 can be developed in accordance with the Village Commercial Zone and Part 2 is proposed to be rezoned to and Agricultural Purposes Only (APO) Zone to facilitate the continues long term agricultural use of the lands.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
 - ✓ No negative impact.
- h) Conforms with Regional lot creation policy as articulated in the Regional Policy Plan; and,
 - ✓ No objection from Region Development Services Division.

- i) Complies with the appropriate provincial Minimum Distance Separation Formulae, where applicable.
 - ✓ N/A

Town Planning staff are of the opinion the proposed consent conforms to the local Official Plan subject to Part 2 being rezoned to an Agricultural Purposes Only (APO) Zone.

Town of Pelham Comprehensive Zoning By-law 4481 (2022)

The subject parcel is zoned 'Village Commercial' (VC) and 'Specialty Agricultural' (SA) in accordance with the Town's Zoning By-law. The VC zoning generally reflects the location of the proposed lot line, with Part 1 being zoned Village Commercial and Part 2 being zoned Specialty Agricultural. The Village Commercial zone permits an existing single detached dwelling and uses, buildings, and structures accessory thereto. It is recommended that Part 2 be rezoned to an Agricultural Purposes Only (APO) Zone to preclude future residential use being established on Part 2 in accordance with provincial plan policies and Town Official Plan policies.

Agency and Public Comments:

On August 4, 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
 - The owner shall obtain a Driveway Access and Culvert Permit from the Town if constructing a new driveway or modifying any existing driveways/entrances. Installation and/or modification of entrances shall be completed in accordance with Town Standards.
- Niagara Region
 - The *Greenbelt Plan, 2017* ("Greenbelt Plan") designates the subject lands as Protected Countryside. "Part 1" is designated as a Settlement Area under the *Provincial Policy Statement, 2020* ("PPS") and Rural Settlement Area (otherwise known as a hamlet) under the *Niagara Official Plan, 2022* ("NOP"). The lands identified as "Part 2" are identified as Specialty Crop Area under both the PPS and NOP.
 - According to Provincial and Regional policies, Rural Settlement Areas shall be the focus of development outside of the urban area boundaries. NOP Policy 4.1.4.2 requires that the size of new residential lots being considered for consent within the agricultural land base shall be an area of 0.4 hectares except to the extent of any additional area deemed necessary to support an on-site private water supply and long-term operation of a private sewage disposal system. Staff note that the proposed residential lot is 0.48 hectares, exceeding the

required area. However, given that the entirety of the proposed residential lot is located outside of the specialty crop area, staff deem this to be acceptable.

- Regional staff offer no objection to the application, as the proposal is consistent with and in conformity to Provincial and Regional policies.
- The subject property falls within the Region's mapped area of archaeological potential, as identified in Schedule 'K' of the NOP. Provincial and Regional policies state that development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved or the land has been investigated and cleared or mitigated following clearance from the Province.
- The Town of Pelham has a Heritage Master Plan. As such, the Region's defers to the town with regard to archaeological requirements.
- Region staff advise the Applicant that there is an existing 300 mm diameter Regional watermain on Canboro Road. The Regional watermain is not to be damaged or disturbed during any future construction works for the proposed development. No connections permitted to Regional mains as this property is outside the urban area.
- NOP Policy 1.6.6.4 states that lot creation on *individual on-site sewage services* is only permitted if there is confirmation of sufficient reserve sewage system capacity for hauled sewage. Additionally, Regional policies require that new lots have 1 acre of usable area to support a replacement septic system/spare septic area.
- Regional staff were unable to locate a record for the existing legal non-conforming sewage system servicing the existing dwelling (Part 1). At the time of the septic inspection, no visual defects were observed with the existing sewage system which appears to be located east of the existing dwelling. The exact location of the in-ground bed was not confirmed, but both the tank and the bed appear to be wholly contained within the property. The proposed consent will not adversely affect the existing sewage system and staff has determined that there should be enough usable area for future replacement of the septic system.
- Therefore, provided no changes are proposed for the existing dwelling, the Region has no objection to the application.

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

- Luc Arvisais
 - Enquired about the zoning of the property; Expressed concern with potential new driveway connections off of Canboro Road and impacts to on street parking;

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 June 1,

2023, to discuss the subject application. In addition, a consent sketch and cover letter were provided in support of the proposed development.

With respect to public comments, staff note that the existing single detached dwelling is a permitted use. No new driveway connection is proposed off Canboro Road.

Based on the analysis in the sections above, Planning staff is of the opinion that the proposed boundary lot adjustment is consistent with the PPS and conforms to Provincial, Regional, and local plans subject to conditions. The resulting parcels should not negatively impact the surrounding neighbourhood with respect to traffic, servicing, privacy, and stormwater management.

Planning Staff Recommendation:

Planning staff recommend that minor variance file B12/2023P **be approved** subject to the following condition(s):

THAT the applicant:

- Part 2 be rezoned to an Agricultural Purposes Only (APO) Zone.
- Submit a comprehensive overall Lot Grading & Drainage Plan for all Parts demonstrating that drainage neither relies upon, nor negatively impacts adjacent properties, and that all drainage will be contained within their respective lots, to the satisfaction of the Director of Public Works, or designate.
- Confirm that no existing utilities cross the proposed lot line. In the event that services do cross, the applicant shall be responsible for the costs and responsibility of their relocation and/or removal.
- 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:

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Planner

Recommended by:

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