



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

Tuesday, April 02, 2024

**Minor Variance Application: A4-2024P**

**Municipal Address: 1313 Victoria Avenue**

**Legal Description: PELHAM CON 8 PT LOT 18 PT, LOT 19 PT LOT 20 (UNREG)**

**Roll number: 2732 010 016 07800**

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

The subject land is located on the east side of Victoria Avenue, lying south of Highway 20 West, being Part of Lot 20, Concession 8, and known locally as 1313 Victoria Avenue in the Town of Pelham.

The subject land is zoned Speciality Agricultural (SA), Greenbelt Natural Heritage Overlay, and Environmental Protection 1 (EP1) in accordance with Town of Pelham Zoning By-law 4481 (2022), as amended. The portion of the lands subject to the application are designated Specialty Agricultural. Application is made to permit a mobile food truck as an On-farm Diversified Use, and seeks relief from the following sections of the Zoning By-law:

- **Section 3.2.2(a) On-Farm Diversified Uses** - Requesting the on-farm diversified use be permitted notwithstanding the use is not directly related to the existing permitted agricultural use(s) on the lot and shall primarily serve the existing permitted agricultural use(s) on the lot and the existing permitted agricultural use(s) on surrounding lots in the area;
- **Section 3.2.2(b) On-Farm Diversified Uses** - Requesting the on-farm diversified use be permitted notwithstanding the product is not produced by, or derived from, the principal agricultural use(s) on the lot as the primary source of the majority of the product;
- **Sections 3.1(c) On-Farm Diversified Uses** - Requesting a front yard setback of 12 metres to a 40m<sup>2</sup> accessory structure related to an on-farm diversified use (covered tent), whereas on-farm diversified uses are not permitted in the required front yard; and,
- **Section 3.1(c) On-Farm Diversified Uses** - Requesting a front yard setback of 14 metres to an 18m<sup>2</sup> accessory structure related to an on-farm diversified use (food truck), whereas on-farm diversified uses are not permitted in the required front yard.

The subject lands are approximately 23.6 hectares in area, with the majority of the lands in agricultural production (approximately 90%). The subject lands currently contain a single detached dwelling, along with four (4) barns, and a washroom

building. The lands are accessed by two driveways from Victoria Avenue to a gravel parking area. There are two septic systems on site, one servicing the existing dwelling and one servicing the employee washroom building.

There is currently a commercial kitchen located in one of the barns which is considered a legal non-conforming use, as it has been in operation prior to the Town adopting a Zoning By-law. The use involves food preparation for off-site sales relating to the applicant's sausage making business. The applicant submitted an affidavit confirming the sausage making use has been in operation since at least the early 1980s.

### **Background:**

A mobile food truck, Country Boys Mobile Food Services, has operated on the site on a seasonal basis under a temporary business license in response to COVID 19 restrictions. The use is known as an on-farm diversified use. The Owner is seeking to permit the on-farm diversified use on a permanent basis between the months of April through October for on-site food service, sale, and consumption. A mobile food truck is proposed to be located along the Victoria Street frontage of the site on a gravel parking area. It is noted that the applicant operates other food trucks that originate from this site and attend other festivals or are used as part of a catering operation for off-site food service, sale, and consumption.

According to the Provincial Policy Statement, an on-farm diversified uses are defined as uses that are secondary to the principal agricultural use of the property and are limited in area. On-farm diversified uses (OFDU) include, but are not limited to, home occupations, home industries, agritourism uses, and uses that produce value added agricultural products.

The lands are currently used for active agricultural production for cash cropping. The OFDU involves a food truck selling prepared products for consumption on site and off-site (hamburgers, sausages, cabbage rolls, baked goods, etc.) as well as locally prepared items for sale, such as honeys, jellies, and jams. The products sold are not directly sourced from the farm, rather ingredients are sourced elsewhere and assembled on site. Staff note the variances are not related to whether the OFDU itself is permitted, rather they are related to the fact that the OFDU is not directly related to the agricultural use of the property (i.e., the product prepared and sold for consumption and sale is not directly sourced on site, nor in the immediate area). In other words, the use is not directly tied to the growing of crops or raising of livestock on site, and as such, minor variances are 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”). A discussion of the four tests is included below.

### 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.

Provincial and Regional policies protect ‘Prime Agricultural Areas’ and ‘Specialty Crop Areas’ for long-term use for agriculture. A variety of uses and activities are permitted in Prime Agricultural Areas, including agricultural uses, agriculture-related uses and on-farm diversified uses.

The PPS defines an on-farm diversified use as: *uses that are secondary to the principal agricultural use of the property, and are limited in area. On-farm diversified uses include, but are not limited to, home occupations, home industries, agritourism uses, and uses that produce value added agricultural products.*

Section 1.1.4 of the PPS speaks to rural areas in municipalities. Policy 1.1.4.1(f) states that healthy, integrated and viable rural areas should be supported by:

- f) *promoting diversification of the economic base and employment opportunities through goods and services, including value-added products and the sustainable management or use of resources.*

The proposed OFDU will enable the owners to diversify their income opportunities while supporting the existing agricultural use of the lands.

Policy 1.1.5.4 states that development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted. The proposed OFDU is compatible with the rural landscape. Through the review of the minor variance application, the Niagara Region is to conduct an inspection of the existing septic system to ensure it is functioning properly and the use can be adequately serviced.

Policy 1.1.5.8 states that Opportunities to support a diversified rural economy should be promoted by protecting agricultural and other resource-related uses and directing non-related development to areas where it will minimize constraints on these uses. The proposed OFDU supports the rural economy by providing an additional income source for the owners, while also supporting the agricultural use of the lands. A discussion of the impacts is included in the four tests of a minor variance section of this Report. Staff are of the opinion the potential impacts of the OFDU are not anticipated to adversely impact the agricultural use of the property, or surrounding area.

Policy 2.3.3.1 permits on-farm diversified uses in prime agricultural areas. The PPS prescribes that OFDUs shall be compatible with, and shall not hinder, surrounding agricultural operations. Criteria for these uses may be based on guidelines developed by the Province or municipal approaches, as set out in municipal planning documents, which achieve the same objectives. Publication 851 - OMAFRA's *Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas* provides guidance on evaluating OFDUs. To qualify as an agriculture-related use or on-farm diversified use in Prime Agricultural Areas, the following criteria must be met, in line with PPS policy 2.3.3.1. A response to each test is given:

1. *The use must be located on a farm.*
  - ✓ The use is located on a farm that is in active production for the purpose of cash crop.
2. *The use must be secondary to the principal agricultural use of the property.*
  - ✓ The use is secondary to the principal agricultural both spatially and temporally. The use is limited in area and is limited to seasonal operation.
3. *The use must be limited in area.*
  - ✓ The use is limited in area to under 2% in line with OMAFRA guidelines. No active agricultural lands are proposed to be removed from production.
4. *The use includes, but is not limited to, home occupations, home industries, agri-tourism uses that produce value-added agricultural products.*
  - ✓ The PPS language related to uses that are not directly related to agriculture suggests that in prime agricultural areas, these operations must be at a reasonable scale, as discussed under the "secondary to..." and "limited in area" criteria. See discussion under #3 above.
  - ✓ The use includes product processed on site that is for sale for consumption. This is considered a value-added process under the OMAFRA guidelines, thus meeting the above noted criterion.
5. *The use shall be compatible with, and shall not hinder, surrounding agricultural operations.*
  - ✓ Please see discussion below. The proposed OFDU is not anticipated to hinder surrounding agricultural operations in terms of traffic, noise, or agricultural character of the area. Staff note the OFDU has been operating on a seasonal basis under a temporary license. No issues related to compatibility have been raised.

Further, the OMAFRA guidelines raise servicing as a crucial component in considering OFDUs. Appropriate servicing levels (water and wastewater) must be available to sustain the use. As part of the minor variance application, the Region is to conduct a visual inspection of the septic system to ensure it is adequate to handle the volumes associated with the OFDU.

Staff are of the opinion the variances are consistent with the Provincial Policy Statement and the OMAFRA's Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas.

#### Greenbelt Plan (2017)

The subject property is within a Prime Agricultural Area. The Greenbelt Plan designates the subject property Specialty Crop Area (Niagara Peninsula Tender Fruit and Grape Area) within the Protected Countryside designation.

Policy 1.2.2(d) of the Greenbelt Plan states a goal of the Protected Countryside designation is to enhance urban and rural areas by promoting the provision of the appropriate flexibility to allow for agricultural, agriculture-related and on-farm diversified uses, normal farm practices and an evolving agricultural and rural economy. The proposed OFDU, in the opinion of staff, provides for this flexibility and is thus in line with the intent of the Protected Countryside designation.

Policy 3.1.2.1 states: All types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected, and a full range of agricultural uses, agricultural-related uses, and on-farm diversified uses are permitted based on the provincial Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas. Proposed agriculture-related uses and on-farm diversified uses shall be compatible with and shall not hinder surrounding agricultural operations.

In the opinion of staff, the proposed OFDU conforms with the Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas, as discussed in the above noted section. The OFDU is considered compatible with and is not anticipated to hinder the existing agricultural operations in the immediate area or on-site.

Staff are of the opinion the proposed variances are 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 subject property is designated Prime Agricultural Area which is intended to protect the lands for long term agricultural use.

Section 4.2.6 of the Growth Plan provides the policy base for the Province's Agricultural System. Agricultural uses are to be protected for the long term. 4.2.6.7 encourages municipalities to support the long-term economic prosperity and viability of agricultural areas through promoting agri-product businesses, while balancing agricultural resources and minimizing land use conflicts. The proposed OFDU,

although not directly related to the agricultural use on the site, can be seen as an agricultural related use, as some local produce is used in the preparation of the product. Further the use supports the continued agricultural use of the lands from an economic viability standpoint. As such, staff are of the opinion the use is appropriate for the lands.

Staff are of the opinion the variances conform with the Growth Plan.

#### Regional Official Plan (Adopted 2022)

The Region of Niagara adopted a new Official Plan on June 23, 2022. It was approved by the Province in November 2022. The agricultural land base is comprised of prime agricultural areas, including specialty crop areas, and rural lands. Within the Greenbelt Area the lands are designated 'Specialty Crop Area' on Schedule F – Agricultural Land Base.

Policy 4.1.2.3 states: "In specialty crop areas and prime agricultural areas, all types, sizes, and intensities of agricultural uses and normal farm practices shall be promoted and protected, and a full range of agricultural uses, agriculture-related uses and on-farm diversified uses are permitted." The variances will facilitate an OFDU that is secondary to the principal agricultural use of the property.

Policy 4.1.7.5 states: "Agriculture-related uses and on-farm diversified uses shall be consistent with the provisions of the Provincial Policy Statement, and conform to the Growth Plan, Greenbelt Plan, and Niagara Escarpment Plan." As noted above, in the opinion of staff, the OFDU is consistent with the PPS, and conforms with the Growth Plan and Greenbelt Plan.

As such, staff are of the opinion the proposed variances conform to the Region's 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 land as 'Specialty Agricultural, Environmental Protection 3, and partially within the Greenbelt Natural Heritage Overlay.' The OFDU is proposed on the portion of the lands designated Specialty Agricultural.

The Specialty Agricultural designation is intended to implement the Province of Ontario's Greenbelt Plan and recognize the importance of specialty croplands in the Provincial and Regional economies. An on-farm diversified use is a permitted use in the Specialty Agricultural designation.

OPA 15 was approved in August 2022. OPA 15 added new policies to the Official Plan which deal with On-Farm Diversified Uses. The following policies apply, in accordance with B2.1.5:

*a) On-farm diversified uses may be permitted in accordance with the policies of this Plan. Allowing a range of appropriate on-farm uses contributes to economically sustainable agriculture in the Town and facilitates broader access to local food and beverages, agricultural products, VQA wines while preserving the agricultural land base and maintaining the agricultural landscape.*

- ✓ The proposed use is an OFDU. Please refer to analysis in PPS section of this Report.

*b) On-farm diversified uses must be both secondary to the principle agricultural use of the property and limited in area. Such uses include but are not limited to home occupations, home industries, agri-tourism uses and other uses that produce value added agricultural products.*

- ✓ In the opinion of staff, the use is secondary to the principal agricultural use both spatially and temporally.

*c) The adaptive re-use of surplus farm facilities on existing farms for on-farm diversified uses and agri-tourism uses at a scale that is appropriate to the farm operation will be encouraged to conserve built heritage resources and cultural heritage landscapes that would otherwise disappear as a result of no longer being required for farm purposes.*

- ✓ One of the existing barns on site is being used to support the OFDU, being a commercial kitchen. The kitchen is utilized for on-site food preparation.

*d) Lot creation to accommodate on-farm diversified uses is not permitted.*

- ✓ Lot creation is not proposed through the application.

*e) On farm diversified uses involving 500 square metres or less will be permitted as of right in the implementing Zoning By-law.*

- ✓ OMAFRA guidelines stipulate that the area calculation should account for all aspects related to an on-farm diversified use such as buildings, outdoor storage, landscaped areas, berms, well and septic systems, parking and new access roads. The aggregate area dedicated to the OFDU is approximately 854 m<sup>2</sup>. This area calculation includes the parking area, septic system, barn #3 on the applicant's sketch, covered tent area, employee washroom, and the food truck. This is approximately 0.36% of the lot area of the subject lands.

- i. Barn #4 was excluded as this is an established legal non-conforming use.



- ✓ The size of all structures associated with the use is approximately 426 m<sup>2</sup>. This is approximately 0.18% of the lot area of the subject lands.
  - Covered tent (40 m<sup>2</sup>), food truck (18 m<sup>2</sup>), barn 3 (355 m<sup>2</sup>), and employee washroom (13 m<sup>2</sup>)
  - Septic bed (135 m<sup>2</sup>), parking area (226 m<sup>2</sup>), outdoor seating area (70 m<sup>2</sup>)

As such, staff are of the opinion that the proposed variances conform with the Town's Official Plan.

Town of Pelham Zoning By-law No. 4481 (2022)

The subject lands are zoned Speciality Agricultural (SA), Greenbelt Natural Heritage Overlay, and Environmental Protection 1 (EP1) per Town of Pelham Comprehensive Zoning By-law 4481. On-farm Diversified Uses are a permitted use in the SA zone. Under the regulations of the Zoning By-law, the minor variance application requests relief from:

- **Section 3.2.2(a) On-Farm Diversified Uses** - Requesting the on-farm diversified use be permitted notwithstanding the use is not directly related to the existing permitted agricultural use(s) on the lot and shall primarily serve the existing permitted agricultural use(s) on the lot and the existing permitted agricultural use(s) on surrounding lots in the area;
- **Section 3.2.2(b) On-Farm Diversified Uses** - Requesting the on-farm diversified use be permitted notwithstanding the product is not produced by, or derived from, the principal agricultural use(s) on the lot as the primary source of the majority of the product;
- **Section 3.1(c) On-Farm Diversified Uses** - Requesting a front yard setback of 12 metres to a 40m<sup>2</sup> accessory structure related to an on-farm diversified use (covered tent), whereas on-farm diversified uses are not permitted in the required front yard; and,
- **Section 3.1(c) On-Farm Diversified Uses** - Requesting a front yard setback of 14 metres to an 18m<sup>2</sup> accessory structure related to an on-farm diversified use (food truck), whereas on-farm diversified uses are not permitted in the required front yard.

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 Test	Variance	Test Response/Explanation
The variance is minor in nature.		<p><b>Section 3.2.2(a) On-Farm Diversified Uses</b>  <b>Section 3.2.2(b) On-Farm Diversified Uses</b></p> <p>If approved, the variance would permit the OFDU as a permitted use, notwithstanding the use is not directly related to the existing permitted agricultural use(s) on the Subject Lands. Minor is a relative term to be</p>



	<p>interpreted in the based on the individual circumstance of each application and lends itself to the degree of impact. One way to evaluate if a variance is minor in nature is to analyze the degree of impact that a proposed variance may have. Potential impacts include increased traffic volumes, impacts to neighbouring properties in terms of noise, the potential of taking agricultural lands out of production, and impacts to the agricultural character of the area.</p> <p>In the opinion of staff, the proposed OFDU will have a minor impact in terms of traffic, noise, and the character of the area. The OFDU is limited in area, as stipulated in Provincial legislation, is located on a portion of the site that is not actively farmed, is similar in character to the surrounding area, and is not anticipated to have negative impacts in terms of traffic and noise. Site plan approval will be a recommended condition of approval. It is noted that the property is located on Victoria Avenue which is a Regional Road and is considered to be an arterial road able to accommodate higher volumes of traffic.</p> <p>Notwithstanding the use is not directly related to the agricultural use of the lands, staff are of the opinion the proposed variances are minor in nature.</p> <p><b>Section 3.1(c) On-Farm Diversified Uses</b>  <b>Section 3.1(c) On-Farm Diversified Uses</b></p> <p>Yes, the variances are considered minor in nature. The reduced setback on the subject property and adjacent properties is minimal given the lot context. The agricultural character of the neighbourhood is not anticipated to be impacted through the reduced setback to the OFDU. The lot area remains available to handle stormwater runoff, and has adequate area for the OFDU to function. As such, staff are of the opinion the variance is minor in nature.</p>
<p>The variance is desirable for the development or use of the land.</p>	<p><b>Section 3.2.2(a) On-Farm Diversified Uses</b>  <b>Section 3.2.2(b) On-Farm Diversified Uses</b></p> <p>If approved, the variance would support the existing agricultural use of the property through providing an additional source of income for the owners, thereby contributing to the economic viability of the agricultural operation.</p> <p>As discussed under the other tests of a minor variance, the use is not anticipated to be incompatible with the surrounding agricultural area, is not anticipated to cause adverse impacts in terms of traffic volumes, noise, or taking agricultural lands out of active production. The use would appear to be appropriate for the site, and in the opinion of staff is desirable for the development or use of the land.</p> <p>Staff are of the opinion the proposed variances are desirable for the development or use of the land.</p> <p><b>Section 3.1(c) On-Farm Diversified Uses</b>  <b>Section 3.1(c) On-Farm Diversified Uses</b></p> <p>Yes, the variance is desirable for the development or use of the land.</p> <p>The requested variances are not anticipated to have negative impacts on the street given the character of the area. The location is desirable as the reduced setback will enable the proposed use to be located close to the street for visibility, however, maintaining a generous setback as to not</p>

	<p>affect sightlines and to alter the character of the surrounding agricultural area. In the opinion of staff the OFDU is an appropriate use for the site and thus is desirable for the development or use of the land.</p>
<p>The variance maintains the general intent and purpose of the Zoning By-law.</p>	<p><b>Section 3.2.2(a) On-Farm Diversified Uses</b>  <b>Section 3.2.2(b) On-Farm Diversified Uses</b></p> <p>The intent and purpose of the requiring an OFDU be directly related to the existing permitted agricultural use is to ensure the use does not detract from the principal use of the lands as agricultural lands, to ensure the character of prime agricultural areas are maintained and mitigate potential impacts to the surrounding area (traffic, noise, etc.). It is intended the main purpose of an OFDU is to support farming activities and agricultural operations as a primary activity. Further, it is the intent and purpose of the Zoning By-law to reflect Official Plan policies, which generally speak to ensuring the economic viability of agricultural lands and avoiding impacts to the character and ability of agricultural lands to be used for agricultural purposes.</p> <p>The intent and purpose of the requiring an OFDU's product be produced by, or derived from, the principal agricultural use(s) on the lot as the primary source of the majority of the product is to ensure that the OFDU directly supports the long-term viability of the agricultural use of the property, and the use is truly secondary to the main use of the lands for an agricultural purpose.</p> <p>The use being "secondary" to the agricultural use of the lands refers to both the OFDU's physical size (e.g. how much space the use takes up) and operational characteristics (e.g. how does the use function in terms of its day-to-day operation – hours of operation, seasonal operation, etc.).</p> <p>In terms of land use, the greatest proportion of the subject lands has been and will continue to be directed to agricultural uses (cash cropping). The use is small in scale (under 2% of the total lot area), and currently occupies a portion of the lands that is not in active agricultural production. The use is proposed to operate seasonally (April to October). As such, staff are of the opinion the use will not detract from the ability of the lands to be farmed and impacts on the agricultural character of the area is to be limited.</p> <p>The OFDU will not disturb or degrade lands that are in active agricultural production. The use will support the land's intended use for agricultural production and will enable the owners to continue to farm the lands and to remain economically viable to do so.</p> <p>In terms of impacts to the surrounding area, the Region of Niagara has not identified any potential issues in terms of traffic volume. The use is not anticipated to alter the character of the surrounding area. The property and surrounding area are characterized by stretches of farmland producing a variety of crops, agricultural buildings, and low-density residential uses. The food truck is not anticipated to detract from the existing character of the area.</p> <p>The use has been operating on a seasonal basis in recent years due to COVID 19 (under a temporary license) without complaints from neighbouring landowners, or the general public. It appears the use is compatible with the surrounding area.</p>

	<p>It is noted the Town's Zoning By-law requires 1 parking space per 55 m<sup>2</sup> GFA for an on-farm diversified use. Based on the area of the OFDU, this equates to 8 parking spaces. Fifteen (15) spaces are accommodated on site.</p> <p>As such, staff are of the opinion the variance maintains the general intent and purpose of the Zoning By-law.</p> <p><b>Section 3.1(c) On-Farm Diversified Uses</b>  <b>Section 3.1(c) On-Farm Diversified Uses</b></p> <p>Yes, the variance maintains the general intent and purpose of the Zoning By-law. The intent of restricting uses in the front yard is to ensure that the structure remains accessory to the principal use of the lot and that there remain adequate setbacks from the street. The OFDU has been designed and sited as to not detract from the agricultural use of the property. As such, staff are of the opinion the 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><b>Section 3.2.2(a) On-Farm Diversified Uses</b>  <b>Section 3.2.2(b) On-Farm Diversified Uses</b></p> <p>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. On-farm diversified uses have been introduced as permitted use in the Town's Official Plan, allowing for an opportunity for farmers to generate additional revenue while balancing farmland preservation.</p> <p>The Official Plan promotes OFDUs as ways to broader access to local food and beverages, agricultural products, while preserving the agricultural land base and maintaining the agricultural landscape.</p> <p>The use provides an opportunity for the owners to enhance the economic viability of the farm while supporting rural economic development. In the long run, this supports the agricultural use of the lands.</p> <p>Based on the discussion in the Town Official Plan section above, the use conforms with policies B1.1.5, introduced through OPA 15.</p> <p><b>Section 3.1(c) On-Farm Diversified Uses</b>  <b>Section 3.1(c) On-Farm Diversified Uses</b></p> <p>Yes, the variances maintain the general intent and purpose of the Official Plan. Staff are of the opinion that the requested front yard setback variances are not considered to have significant impacts within the context of the Official Plan.</p> <p>The requested variances 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>

## Agency and Public Comments:

On March 4, 2024, 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
  - The building department will require a permit be applied for as the tent is attached to the building.
  - The fire department also needs to be informed if any tent is larger than 30m<sup>2</sup>, proposed tent is 37.16m<sup>2</sup>
- Public Works Department
  - The applicant shall circulate the comprehensive Lot Grading & Drainage Plan should the region require it. Lot Grading and Drainage Plan should demonstrate that the drainage neither relies, nor negatively impacts neighboring properties, and that all drainage will be contained within the respective lot. The Lot Grading and Drainage Plan will be required as part of a Site Plan approval process.
- Niagara Region
  - Provincial and Regional policies permit a full range of agricultural, agriculture-related and on-farm diversified uses within specialty crop areas. Agriculture-related and OFDUs are intended to complement the principal agricultural uses on the property and in the surrounding area and contribute to the sustainability and viability of the farming operation and be limited in area. Additional information is required to confirm that the proposal meets the "limited in area" criteria. Staff request the submission of a detailed site plan at the Site Plan Approval stage showing the total development envelope coverage of the site (including parking, seating areas, septic system, etc.) in square metres.
  - Staff is of the understanding that the proposal will not result in any deep ground disturbance. As such, in lieu of an archaeological assessment, staff provide the following archaeological advisory clause: *"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 (MCM) (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 Niagara Regional Police Services as well as the Cemeteries Regulation Unit of the Ministry of Public and Business Services Delivery (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, the MCM 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 septic tank lids for the employee washroom and food preparation area were exposed and loosened prior to the onsite inspection. Staff observed no defects with the existing systems at the time of the inspection.
- In conclusion, Regional Growth Management and Planning Division staff offer no objection to the Minor Variance application as the proposal is generally consistent with the intent of Provincial and Regional On-Farm-Diversified Use policies. At the Site Plan stage, staff will require the submission of a detailed site plan to confirm that the proposal is consistent with the criteria for OFDUs outlined in the OMAFRA Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas. The detailed site plan should account for all aspects related to the OFDU, including (but not limited to) any outdoor storage areas, landscaped areas, septic system, parking areas, seating areas, etc.

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

### **Planning Staff Comments:**

Planning staff have reviewed the Planning Justification Brief submitted by NPG Planning Consultants dated February 15, 2024, as well as reviewed all agency and public correspondence submitted to date and offer the following for the Committee's consideration.

As mentioned in the discussion above, staff note the variances are not related to whether the OFDU itself is permitted, rather they are related to the fact that the OFDU is not directly related to the agricultural use of the property, nor tied to the growing of crops or raising of livestock on site.

The applicant appended a decision from Ontario Municipal Board (OMB) (Case No. PL151098) to their planning justification report. The Board Member found *"to require that an on-farm diversified use be connected to agricultural in some way would render the definition of on-farm diversified uses redundant and void of any meaningful utility."* Following this reasoning, although conditional on the existence of a principal use (i.e. agriculture), an OFDU need not contribute directly to it.

Based on the discussion provided in this report, staff is of the opinion the variances are minor in nature, conform 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 A4/2024P **be approved** subject to the following condition(s):

**THAT** the applicant:

- Apply for site plan approval and enter into a site plan agreement with the Town to the satisfaction of the Director of Community Planning and Development.
- Obtain building permit approval for the tent, 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