

Committee of Adjustment AGENDA

04-2024

April 2, 2024

4:00 pm

Town of Pelham Municipal Office - Council Chambers

20 Pelham Town Square, Fonthill

The Town of Pelham is holding hybrid meetings of Council and Committee in accordance with Procedure By-law 4507(2022). Public access to meetings will be provided in-person at the location indicated on the agenda, 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**
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11.	Adjournment	



**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

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 40m² 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 18m² 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 m². 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 m². This is approximately 0.18% of the lot area of the subject lands.
 - Covered tent (40 m²), food truck (18 m²), barn 3 (355 m²), and employee washroom (13 m²)
 - Septic bed (135 m²), parking area (226 m²), outdoor seating area (70 m²)

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 40m² 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 18m² 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>Section 3.2.2(a) On-Farm Diversified Uses Section 3.2.2(b) On-Farm Diversified Uses</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>Section 3.1(c) On-Farm Diversified Uses Section 3.1(c) On-Farm Diversified Uses</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>Section 3.2.2(a) On-Farm Diversified Uses Section 3.2.2(b) On-Farm Diversified Uses</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>Section 3.1(c) On-Farm Diversified Uses Section 3.1(c) On-Farm Diversified Uses</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>Section 3.2.2(a) On-Farm Diversified Uses Section 3.2.2(b) On-Farm Diversified Uses</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 m² 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>Section 3.1(c) On-Farm Diversified Uses Section 3.1(c) On-Farm Diversified Uses</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>Section 3.2.2(a) On-Farm Diversified Uses Section 3.2.2(b) On-Farm Diversified Uses</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>Section 3.1(c) On-Farm Diversified Uses Section 3.1(c) On-Farm Diversified Uses</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 30m², proposed tent is 37.16m²
- 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

Engineering Department Committee of Adjustment Report

For

**A4-2024P
1313 Victoria Avenue**

March 07, 2024

Town staff have reviewed the following documentation for the purpose of
A4-2024P- Minor Variance application for:

The subject land is zoned Specialty Agriculture (SA) in accordance with Pelham Zoning By-law 4481(2022), as amended. Application for relief is made, to permit a mobile food truck as an On-farm Diversified Use that requires relief from the following section(s) 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; and

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; and

Sections 3.1(c) On-Farm Diversified Uses - Requesting a front yard setback of 12 metres to a 40m² 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 a 18m² accessory structure related to an on-farm diversified use (food truck), whereas on-farm diversified uses are not permitted in the required front yard.

This full report contains following comments in conjunction with Minor Variance application **A4-2024P – 1313 Victoria Avenue**

Introduction:

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, in the Town of Pelham.

The Subject Lands are comprised of a total area of approximately 23.6 hectares. The primary use of the Subject Lands is agricultural production, with approximately 90% of the land being farmed. The remaining portion of the Subject Lands encompass a 2-storey farmhouse dwelling with a detached garage, four (4) separate barns and a washroom building which is utilized by employees of the agricultural operation. The four barns, along with the employee washroom, serve a dual purpose: they support the primary agricultural activities (cash cropping) and support the legal non-conforming use on the Subject Lands, being a commercial kitchen. This kitchen is utilized for on-site food preparation intended for off-site sale.

The Subject Lands are accessible via two gravel driveways from Victoria Avenue. One driveway is designed to facilitate access to the residential farm dwelling on the Subject Lands, while the other driveway supports the primary agricultural use.

Application for relief is made, to permit a mobile food truck as an On-farm Diversified Use that requires relief from the following section(s) of the Zoning By-law as stated above.

This full report contains following comments in conjunction with Minor Variance application A4-2024P – 1313 Victoria Street and shall be addressed to the satisfaction of the Director of Public Works. Note that further comments to be forthcoming on subsequent submissions.

Analysis:

Please see condition below.

Public Works offer the following comments:

- 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.

To: Sarah Leach

Cc: Andrew Edwards

From: Alex Foisey, Building Intake/Zoning Technician

Date: March 20th, 2024

Subject: Building Comments on Applications to the Committee of Adjustment for
1313 Victoria Avenue
File Number: A4-2024P

Comments:

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 30m², proposed tent is 37.16m²

Building has no comments on the proposed food Truck

Respectfully,
Alex Foisey

Growth Management and Planning Division

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7

905-980-6000 Toll-free: 1-800-263-7215

Via Email Only

March 19, 2024

File Number: PLMV202400028

Sarah Leach
Deputy Clerk/Secretary-Treasurer
Town of Pelham
20 Pelham Town Square, P.O. Box 400
Fonthill, ON L0S 1E0

Dear Ms. Leach:

Re: Regional and Provincial Comments
Application Type: Minor Variance
Town File Number: A4-2024P
Applicant/Agent: [REDACTED]
Owner: [REDACTED]
Location: 1313 Victoria Avenue, Pelham

Regional Growth Management and Planning Division staff has reviewed the materials circulated with the Minor Variance application for the lands located at 1313 Victoria Avenue in the Town of Pelham ("subject lands").

The applicant is proposing relief from Pelham's Zoning By-Law 4481(2022) to permit a mobile food truck as an On-Farm Diversified Use.

A pre-consultation meeting attended by the landowner, Regional, and Town staff was held on March 2, 2023. At that time the Town was requiring an Official Plan Amendment ("OPA") and Zoning By-Law Amendment ("ZBA") applications in addition to Site Plan Approval; however, staff acknowledge that the Minor Variance application was requested in lieu of an OPA/ZBA.

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

Provincial and Regional Policies

According to the Provincial Policy Statement, 2020 ("PPS"), the subject lands are located within the Prime Agricultural Area, and more specifically within a Specialty Crop Area, and designated as Specialty Crop Area in the Niagara Official Plan, 2022 ("NOP"). The lands fall within the Protected Countryside of the Greenbelt Plan, 2017 ("Greenbelt Plan"), and more specifically within the Specialty Crop Area – Niagara Peninsula Tender Fruit and Grape Area.

Provincial and Regional policies permit a full range of agricultural, agriculture-related and on-farm diversified uses ("OFDUs") 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.

The PPS defines OFDUs as those that are secondary to the principal agricultural use of the property, and are limited in area; these can include, but are not limited to, home occupations, home industries, agri-tourism uses, and uses that produce value-added agricultural products.

Pursuant to the PPS, the Ontario Ministry of Agriculture, Food and Rural Affairs' ("OMAFRA") Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas ("OMAFRA Guidelines") provide criteria to consider when determining the classification of a diversification use in prime agricultural areas. These uses are to be considered based on the following criteria:

1. Located on a farm;
2. Secondary to the principal agricultural use of the property;
3. Limited in area;
4. Includes, but is not limited to, home occupations, home industries, agri-tourism uses and uses that produce value-added agricultural products; and
5. Shall be compatible with, and shall not hinder, surrounding agricultural operations.

With regard to Criterion #1, the proposed use is located on an agricultural parcel that is planted with cash crop.

The OMAFRA Guidelines recommend considering Criterion #2 based on spatial and temporal terms; the uses must be secondary relative to the agricultural use of the property, and the spatial limits are addressed through Criterion #3, and temporal considerations apply to uses that are temporary or intermittent, such as events.

Criterion #3 requires the OFDUs to be limited in area, recommending that these uses are limited to a maximum of 2% lot coverage with further limitations on the gross floor area ("GFA") of the buildings used for OFDUs (e.g. 20% of the 2%).

The Guidelines note that "limited in area" calculations should account for all aspects related to an OFDU, including any buildings, outdoor storage areas, landscaped areas,

berms, wells and septic systems, parking areas and new access roads, and that the lot area coverage ratio should be based on the size of the individual parcel of land where the use is located and not the total area of a farm operation. The size of the parcel is 23.6 hectares; therefore, in order to adhere to the recommended size limit, the total area of the proposed OFDU (and all aspects related to it) would need to be no larger than 0.472 hectares (4,720 sq. m) in area.

The Planning Justification Brief prepared by NPG Planning Solutions (dated February 15, 2024) notes that the GFA of the proposed OFDU is approximately 18 sq. m., noting that a portion of the existing gravel parking lot is to be used for parking and customer seating. 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.

Archaeological Potential

The subject lands fall within the Region's mapped area of archaeological potential, as identified on 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.

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."

Private Servicing

Regional Private Sewage System staff are of the understanding that there are no public washrooms being added to the property to support the food truck and that all greywater from the food truck will be disposed of by the sewage system onsite.

Staff were unable to identify any records for the two existing septic systems onsite. One of the septic systems services the dwelling and the other services the employee washroom / food preparation area. The septic system for the dwelling is located east of the dwelling and the septic system for the employee washroom and food preparation sink is located east of the employee washroom.

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.

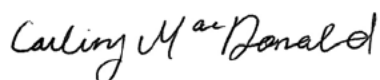
Given that the food truck will meet the minimum building code setbacks and that no building permits are required, staff offer no objection to the continued use of the existing sewage system to service the food truck. Please note, if at any time the sewage systems become defective or the sewage flows are added to the property, the existing septic systems would need to be replaced and meet current building code requirements.

Conclusion

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.

Please send copies of the staff report and notice of the Town's decision on these applications. If you have any questions related to the above comments, please contact me at carling.macdonald@niagararegion.ca

Kind regards,



Carling MacDonald
Development Planner, Niagara Region

cc: Pat Busnello, Manager of Development Planning, Niagara Region
Caitlin Goodale, Private Sewage System Inspector, Niagara Region



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

Tuesday, April 02, 2024

Minor Variance Application: A5-2024P

Municipal Address: 35 Philmori Boulevard

Legal Description: PLAN 59M403 LOT 52

Roll number: 2732 020 010 03452

Nature and Extent of Relief/ Permission Applied for:

The subject land is corner lot on Philmori Boulevard, lying east of Joyce Crescent, being Lot 52 on Plan 59M-403 in the Town of Pelham.

The subject land is zoned Residential One (R1) in accordance with Pelham Zoning By-law 4481(2022), as amended. Application for relief is made, to facilitate the construction of shed. The applicant seeks relief from the following section(s) of the Zoning By-law:

- a. **Section 3.1(c) "Accessory Uses, Buildings, and Structures"** – to permit an exterior side yard setback of 1.2m whereas the By-law requires an exterior side yard setback of 3.0m.

The applicant is proposing to construct a 7.44 square metre (80 ft²) accessory structure in the rear yard to house the circulating equipment for a proposed pool. The accessory structure is in the southeast corner of the site. The subject lands are located along a curve of Philmori Boulevard. As such, the eastern property line is considered an exterior side yard as it has frontage along the street. The site has approximately 22 metres of frontage on Philmori Boulevard and is approximately 833.25 square metres in lot area.

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.

Section 3 of the *Planning Act* requires that decisions affecting planning matters “shall be consistent with” policy statements issued under the Act. The PPS recognizes the diversity of Ontario and that local context is important. Policies are outcome-oriented, and some policies provide flexibility provided that provincial interests are upheld. PPS policies represent minimum standards.

The subject land is located in a ‘Settlement Area’ according to the PPS. Policy 1.1.3.1 states that settlement areas shall be the focus of growth and development.

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

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 lands are located within the Delineated Built Boundary. Section 2.2.1 of the Growth Plan directs growth to settlement areas that have a delineated built boundary, have existing municipal services, and can support the achievement of complete communities. The Growth Plan states municipalities will support the achievement of complete communities by planning to accommodate forecasted growth, planning to achievement the minimum intensification and density targets of the Plan, considering the range and mix of housing options and densities of existing housing stock, and planning diversify overall housing stock.

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

Regional Official Plan (Adopted 2022)

The Region of Niagara adopted a new Regional Official Plan (ROP) on June 23, 2022. It was approved by the Province in November 2022. The subject lands are recognized as Built-Up Area in the Regional Official Plan.

Policy 2.3.1.4 provides that new residential development and residential intensification are encouraged to be planned and designed to mitigate and adapt to the impacts of climate change by:

- a) facilitating compact built form; and
- b) incorporating sustainable housing construction materials or practices, green infrastructure, energy conservation standards, water efficient technologies, and low impact development.

Planning staff are of the opinion the proposed variance conforms with the Regional Official Plan.

Town of Pelham Official Plan (2014)

The Town of Pelham Official Plan is the primary planning document that will direct the actions of the Town and shape growth that will support and emphasize Pelham's unique character, diversity, cultural heritage and protect natural heritage features.

The local Official Plan designates the subject land as North West Fonthill Secondary Plan Area – Low Density Residential. The purpose of the North West Fonthill Secondary Plan is to protect natural heritage features and to establish a comfortable and attractive neighbourhood with a range of housing types. It is the intent of the Town to permit single-detached dwelling units in an environmentally sound manner, including the protection of the interpretive, educational and scientific value of the surrounding landscape.

Policy E1.5 states that in addition to the *Planning Act* four tests considered in determining whether to grant a minor variance, applicants should be prepared to demonstrate a need for the requested relief on the basis that the subject zoning provision is not warranted in a particular circumstance, causes undue hardship, or is otherwise impossible to comply with.

The applicant submitted a cover letter with the application. The applicant has indicated the intention of siting the shed within the exterior side yard setback is to enhance the functionality of the property, and to maximum the amenity space within the backyard.

Staff are of the opinion the variance conforms with the Town of Pelham's Official Plan.

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

The subject lands are zoned Residential 1 (R1) per Town of Pelham Comprehensive Zoning By-law 4481. A single detached dwelling, and accessory uses are permitted uses in the R1 zone. Under the regulations of the Zoning By-law, the minor variance application requests relief from:

- a. **Section 3.1(c) "Accessory Uses, Buildings, and Structures"** – to permit an exterior side yard setback of 1.2m whereas the By-law requires an exterior 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>Section 3.1(c) Accessory Uses, Buildings, and Structures</p> <p>Yes, the variance is minor in nature. In the opinion of staff, the variance is minor in nature as the reduction to the setback is not anticipated to result in a negative impact on the adjacent uses or substantially remove any of the amenity space of the lot. Locating the accessory structure closer to the exterior lot line will enhance the functionality of the amenity space, as an easement is located along the southern property line of the lot.</p> <p>As such, staff are of the opinion the variance is minor in nature.</p>
The variance is desirable for the development or use of the land.	<p>Section 3.1(c) Accessory Uses, Buildings, and Structures</p> <p>Yes, the variance is desirable for the development or use of the land.</p> <p>The requested variances would not have a negative impact on the character of the surrounding area. The variances would allow for appropriate development of a pool and accessory structures associated with the pool on an existing lot. The construction of the accessory structure is not anticipated to have a significant visual impact on the streetscape and will be screened by an existing fence and cedar hedge. The construction would be in character of the area which includes residential uses and uses accessory thereto.</p> <p>As such, staff are of the opinion the variance is desirable for the development or use of the land.</p>
The variance maintains the general intent and purpose of the Zoning By-law.	<p>Section 3.1(c) Accessory Uses, Buildings, and Structures</p> <p>Yes, the variance maintains the general intent and purpose of the Zoning By-law. The intent of the exterior side yard setback is to maintain distance from the street to increase visibility for drivers, avoid over-development of lots, and allow for enhanced landscaping along corner lots.</p> <p>The proposal maintains adequate visibility at the curve of Philmori Boulevard, allows for adequate landscaping, and does not result in the overdevelopment of the site. the reduction in exterior side yard is proposed to the rear of the lot, setback adequately from the front lot line. A large daylighting triangle exists on the property providing ample visibility at the corner of the street.</p> <p>As such, staff are of the opinion the variance maintains the general intent and purpose of the Zoning By-law.</p>
The variance maintains the general intent and purpose of the Official Plan.	<p>Section 3.1(c) Accessory Uses, Buildings, and Structures</p> <p>Yes, the variance maintains the general intent and purpose of the Official Plan.</p> <p>Staff are of the opinion that the requested variance is not considered to have significant impacts within the context of the Official Plan policies. The</p>

	<p>Official Plan states that development and redevelopment shall maintain and enhance the character and stability of existing and well-established residential neighbourhoods with regards to scale and density.</p> <p>The requested variances would not have a negative impact on the character of the surrounding area. The variance would allow for appropriate development of an accessory structure on an existing lot.</p> <p>As such, staff are of the opinion the variance maintains the general intent and purpose of the Official Plan.</p>
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Agency and Public Comments:

On February 23, 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
 - A Building Permit is not required for the proposed Accessory Structures.
- Public Works Department
 - Applicant must acknowledge that the trees located within the rear yard easement will not impact the function of the rear yard swales. Any future maintenance work required by the Town to maintain the easement could result in the removal of the trees and they will not be replaced.
 - Applicant must acknowledge that there are no structures to be constructed in the easement along the rear lot line.
 - The applicant must submit a comprehensive Lot Grading & Drainage Plan demonstrating that the drainage neither relies, nor negatively impacts neighboring properties, and that all drainage will be contained within the respective lot, to the satisfaction of the Director of Public Works, or designate.

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

Planning Staff Comments:

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.

Based on the analysis given in above sections, 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 are appropriate for the development and use of the land.

Planning Staff Recommendation:

Planning staff recommend that minor variance file A5/2024P **be approved** subject to the following condition(s):

THAT the applicant:

- Obtain a pool permit from the Town's By-law Department to the satisfaction of the Director of Community Planning and Development.
- Submit a comprehensive Lot Grading & Drainage Plan demonstrating that the drainage neither relies, nor negatively impacts neighbouring properties, to the satisfaction of the Director of Public Works, or designate.
- That the Applicant submit a written acknowledgment that the trees located within the rear yard easement will not impact the function of the rear yard swales and that there are no structures to be constructed in the easement along the rear lot line. Any future maintenance work required by the Town to maintain the easement could result in the removal of the trees and they will not be replaced.

Prepared and Submitted by:

Andrew Edwards, BES
Planner

Recommended by:

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

**Engineering Department
Committee of Adjustment Report****For****A5-2024P
35 Philmori Drive****March 07, 2024**

Town staff have reviewed the following documentation for the purpose of **A5-2024P**- Minor Variance application for:

The subject land is zoned Residential One (R1) in accordance with Pelham Zoning By-law 4481(2022), as amended. Application for relief is made, to facilitate the construction of shed. The applicant seeks relief from the following section(s) of the Zoning By-law:

Section 3.1(c) "Accessory Uses, Buildings, and Structures" – to permit an exterior side yard setback of 1.2m whereas the By-law requires an exterior side yard setback of 3.0m.

This full report contains following comments in conjunction with Minor Variance application **A5-2024P – 35 Philmori Avenue**

Introduction:

The subject land is corner lot on Philmori Boulevard, lying east of Joyce Cr., being Lot 52 on Plan 59M-403 in the Town of Pelham.

The proposed shed/location is designed to enhance the functionality of property without causing any adverse impact on neighbouring properties of the overall aesthetic of the area. The slight adjustment in distance from the exterior fence is necessary to maximize the use of available space while maintaining compliance with other zoning requirements including the easement on the south side of the backyard.

Application for relief is made, to permit a shed as that requires relief from the following section(s) of the Zoning By-law as stated above.

This full report contains following comments in conjunction with Minor Variance application A5-2024P – 35 Philmori Boulevard and shall be addressed to the satisfaction of the Director of Public Works. Note that further comments to be forthcoming on subsequent submissions.

Analysis:

Please see comment below.

Public Works offer the following comments:

- Applicant must acknowledge that the trees along the easement to the south will not impact the rear yard swales. Any future maintenance work required by the town, these will be removed and not replaced.
- Applicant must acknowledge that there are no structures be constructed on Town easement.
- The applicant must submit a comprehensive Lot Grading & Drainage Plan demonstrating that the drainage neither relies, nor negatively impacts neighboring properties, and that all drainage will be contained within the respective lot, to the satisfaction of the Director of Public Works, or designate.

To: Sarah Leach

Cc: Andrew Edwards

From: Alex Foisey, Building Intake/Zoning Technician

Date: March 20th, 2024

Subject: Building Comments on Applications to the Committee of Adjustment for
35 Philmori Boulevard
File Number: A5-2024P

Comments:

- A Building Permit is not required for the proposed Accessory Structures.

Respectfully,
Alex Foisey



Community Planning and Development Department
Committee of Adjustment
Tuesday, April 02, 2024

Consent Application: B7-2024P

Municipal Address: 61 Port Robinson Road
Legal Description: PLAN 25 PT LOT 17 NP717
Roll number: 2732 030 004 06000

Location of Lands and Purpose of Application:

The subject parcel, shown as Parts 1 and 2 on the attached sketch, has a combined frontage of 33.49 metres on the north side of Port Robinson, lying east of Station Street, legally described above, in the Town of Pelham.

Application is made for consent to partial discharge of mortgage and consent to convey 634.4 square metres of land (Part 1), for future construction of a semi-detached dwelling. Part 2 is to be retained for the continued use of the single detached dwelling. Municipal water and sanitary servicing connections exist along Port Robinson.

Staff note a Zoning By-law Amendment (ZBA) application was approved by Council in February 2024. The ZBA rezoned the overall land holdings from the Residential Development (RD) zone to the site-specific Residential 2-157 (R2-157) zone.

The application for Zoning By-law Amendment was received for the property known as 61 Port Robinson Road and described legally as PLAN 25 PT LOT 17 NP717. The lands have 33.49 metres of frontage along Port Robinson Road and are 1,279.2 square metres in area. The lands currently host a single detached dwelling and detached garage.

Surrounding land uses are primarily residential, consisting of a mix of single detached dwellings, townhouse, and a small-scale apartment to the west. It is noted to the north and south of the lands are draft plan approved subdivision developments (Summersides Village, Forest Park) within the East Fonthill Secondary Plan Area.

The proposed semi-detached dwelling is two storeys in height and is proposed to have a twinned garage and driveway configuration. The existing one and half storey single detached dwelling on the eastern portion of the site is to remain. However, the existing detached garage is to be removed to accommodate the proposed semi-detached dwelling. The original location of the driveway that services the existing dwelling was proposed to be moved to the east in front of the existing dwelling.

Applicable Planning Policies:

Planning Act

Applications for consent shall have regard to provincial interests and the *Planning Act* land division criteria, contained under Section 51(24) of the *Planning Act*:

- a) The development's effect on provincial matters of interest;
 - See PPS and Growth Plan analysis in sections below.
- b) Whether the proposed subdivision is premature or in the public interest;
 - The application is not considered premature and is able to uphold public interest as it is within the Urban Area Boundary and is seen as an appropriate form of intensification.
- c) Whether the plan conforms to the Official Plan and adjacent plans of subdivisions, if any;
 - See Official Plan discussion below.
- d) The suitability of the land for such purposes;
 - The lands and surrounding neighbourhood are predominately low to medium density residential dwellings. The proposed consent would facilitate the construction of an additional semi-detached dwelling on the lands to be severed and is suitable for such use.
- f) The dimensions and shapes of the proposed lots;
 - The proposed lot will have a regular rectangular shape and adequate dimensions to site a future residential development.
- h) Conservation of natural resources and flood control;
 - No natural resources or flood concerns have been identified. A lot grading and drainage plan will be recommended as a condition of approval.
- i) The adequacy of utilities and municipal services;
 - The retained parcel is connected to municipal infrastructure and has access to the full range of public services. Utilities and municipal services are available to service the severed parcel and it will be required to connect to municipal services.
- j) The adequacy of school sites;
 - Available nearby. School Boards did not comment on application.

Planning staff are of the opinion the applicant for consent has regard for the *Planning Act*.

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.

Section 3 of the *Planning Act* requires that decisions affecting planning matters “shall be consistent with” policy statements issued under the Act. The PPS recognizes the diversity of Ontario, and that local context is important. Policies are outcome-oriented, and some policies provide flexibility provided that provincial interests are upheld. PPS policies represent minimum standards.

The subject land is in a ‘Settlement Area’ according to the PPS. Policy 1.1.3.1 states that settlement areas shall be the focus of growth and their vitality and regeneration shall be promoted.

Policy 1.1.3.2 states that land use patterns within settlement areas shall be based on a range of densities and mix of land uses that efficiently use land and resources, are appropriate for and efficiently use infrastructure and public service facilities, minimize negative impacts to air quality and climate change and promote energy efficiency, prepare for the impacts of a changing climate, support active transportation and are transit and freight supportive.

Policy 1.1.3.3 provides for the promotion of intensification and redevelopment accommodating a significant supply and range of housing options where it can be accommodated considering the building stock, availability of existing and planned infrastructure and public service facilities required to accommodate the needs of the development.

Infill development is an acceptable form of intensification so long as new development is compatible in nature, is compact, and avoids adverse impacts to provincial interest, public health, safety, and the quality of the human environment. Planning staff are of the opinion the proposed consent is consistent with the PPS and promotes appropriate development standards that help facilitate compact form and intensification.

Staff are of the opinion the application for consent is consistent with the Provincial Policy Statement.

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.

Policy 2.2.2.1(a) requires a minimum of 50 percent of all new residential development to occur within the delineated built-up area.

Policy 2.2.2.3(b) encourages intensification generally throughout the built-up area and investment in services that will support intensification.

The additional residential lot will help the Town to meet or exceed its delineated built boundary intensification targets. The proposed lot will help contribute towards the municipal property tax base which helps financially support the maintenance of linear infrastructure and public service facilities. The existing water and sanitary sewer mains already extend along the frontage of the subject lands but would be better utilized with additional building connections.

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

Niagara Region Official Plan (2022)

The Region of Niagara adopted a new Official Plan on June 23, 2022. Approval was granted by the Province on November 7, 2022. The new Region of Niagara Official Plan provides the policy guidance for future development across the Region. The lands are designated as Built-Up Area in the Niagara Region Official Plan.

Policy 2.2.2.5 requires that across the Region 60% of all residential units occurring annually are to be in the Built-Up Areas of the Region and in Pelham, this translates into an annual intensification rate of at least 25% of new residential units. The objective of intensification is to increase housing choice and housing affordability across the Region to meet future housing needs while at the same time making efficient use of infrastructure, community services and urban lands.

Policy 2.3.1 provides the direction with regards to a mix a housing options and specifically Policy 2.3.1.1 states that the development of a range and mix of densities, lot, and unit sizes, and housing types, including affordable and attainable housing, will be planned throughout settlement areas to meet housing needs at all stages of life.

Policy 2.3.1.4 also provides that new residential development and residential intensification are encouraged to be planned and designed to mitigate and adapt to the impacts of climate change by:

- a) facilitating compact built form; and,
- b) incorporating sustainable housing construction materials or practices, green infrastructure, energy conservation standards, water efficient technologies, and low impact development.

Staff are of the opinion that the proposed consent conforms with the Regional Official Plan.

Town of Pelham Official Plan (2014)

The Town of Pelham Official Plan is the primary planning document that will direct the actions of the Town and shape growth that will support and emphasize Pelham's unique character, diversity, cultural heritage and protect our natural heritage features.

The property is located within the East Fonthill Secondary Plan area. The subject lands are designated East Fonthill - Medium Density Residential, according to Schedule 'A5' of the Official Plan.

Permitted uses in the EF - Medium Density Residential designation are all forms of townhouse units; small scale apartment buildings; accessory apartments/secondary suites; live-work units; housing for seniors and/or special needs housing; accessory buildings and structures related to the primary residential dwelling unit; home occupations; places of worship; day nurseries; convenience retail and service commercial uses; parks, parkettes, and open space linkages; and public uses and public and private utilities. Single and semi-detached dwellings may also be permitted provided they are limited in number, i.e., less than 15% in a plan of subdivision.

Section B1.7 provides the policy base for the East Fonthill Secondary Plan area. Plan objectives are contained in Section B1.7.3.1. Objectives include, but are not limited to:

- To ensure that the community is developed with a compact urban form and at an appropriate scale that is pedestrian-oriented and fosters community interaction
- To create a complete community with a safe, healthy and functional environment that can accommodate between 6,500 and 7,500 new residents and jobs combined;
- To ensure that all new development occurs on the basis of full urban water and sanitary sewer facilities, as well as adequate utility networks;

The lands form part of Neighbourhood 1 on Schedule A4 'Structure Plan'. According to Policy B1.7.7.2 (b)(i), Neighbourhood 1 shall achieve an overall minimum gross density of approximately 57 persons and jobs per gross hectare combined.

Sub policy B1.7.7.4.2(c), permits singles and semi-detached dwellings to be developed at densities between 20-50 units per net hectare.

Policy A2.2.2 Growth & Settlement – states that it is a goal of this Plan to encourage intensification and redevelopment within the *Urban Area* specifically in proximity to the Downtown.

Section A2.3.2 Urban Character sets out the objectives for the urban character of the Town. Objectives include to respect the character of existing development and ensure that all applications for development are physically compatible with the character of the surrounding neighbourhood, and to maintain and enhance the character and stability of existing and well-established residential neighbourhoods by ensuring that development and redevelopment is compatible with the scale and density of existing

development. The proposal is supported by the Town Official Plan policies that encourage infill within existing built-up areas. It is noted compatibility does not necessarily mean the same as, rather the ability to coexist together.

The character of the neighbourhood is a mix of housing and densities including single and semi-detached housing styles from traditional to modern and constructed over a variety of eras of development. The neighbourhood has been experiencing some recent intensification with the approval of various draft approved plans of subdivisions, and new builds in the surrounding area. The proposed lot creation would provide for residential development that reflects of the density and contributes to the character of the area.

Policy A2.5.2 Infrastructure – stated objectives of this Plan include maintaining existing infrastructure in a manner that is cost effective and contributes to the quality of life of citizens. The proposed lot will utilize the existing infrastructure along Church Street.

Policy B1.1.3 states that in considering residential intensification proposals, the following criteria are applicable:

- a) Schedules A1 and A2 to this Plan identify a number of areas that may be good candidates for residential intensification. This does not preclude consideration for other sites in the Urban Living Area designation provided these sites abut arterial or collector roads or are located on a local road on a site that is no further than 100 metres from an intersection with an arterial or collector road;
 - ✓ N/A. The lands are not located on a local road. Port Robinson Road is identified as a Collector Road, per Schedule C of the Town's Official Plan.
- b) Intensification and redevelopment proposals are encouraged to achieve a unit density and housing type that is in keeping with the character of the density of the neighbourhood where it is proposed. Within the identified intensification areas identified on Schedules A1 and A2 the implementing Zoning By-law may establish minimum and maximum densities of between 10 and 25 units per hectare;
 - ✓ The subject lands are not within an identified intensification area. However, they are located on a Collector Road which is an appropriate location for gentle intensification. It is noted density of the development is approximately 23.5 units per hectare (3 units / 0.128 hectares), which, in the opinion of staff meets the intent of policy B1.1.3.
- c) Residential intensification and redevelopment proposals located on lands which abut local roads shall maintain the unit density and unit type of the surrounding neighbourhood, but may through a Zoning By-law Amendment, increase the unit density by up to 25% of the existing gross density of lands located within 300 metres of the site, provided the resultant development will be characterized by quality design and landscaping, suitable building setbacks,

and further that parking areas and traffic movements will not negatively impact the surrounding neighbourhood from the perspectives of safety or neighbourhood character;

- ✓ N/A. The lands are not located on a local road. As noted, Port Robinson is a Collector Road.
- d) Notwithstanding items (b) and (c), the creation of new freehold or vacant condominium infill lots through the consent process, for ground-oriented detached dwellings, may be permitted provided the proposed lot and unit type is similar to and compatible with the established character of the street or neighbourhood where it is proposed. The Zoning By-law shall establish minimum lot area and frontages and minimum and/or maximum densities which are considered appropriate within the Urban Living Area designation;
- ✓ The consent will facilitate the severance of the existing lot for the purpose of one freehold lot with a proposed semi-detached dwelling. The built form is low density, similar to and generally compatible with existing development along Port Robinson Road and the surrounding area.
- e) The creation of accessory apartments and in-law suites within residential neighbourhoods is considered to be an appropriate form of residential intensification. The establishment of accessory apartments shall occur in accordance with Policy B1.1.4 and Council may reduce the application fee for such amendments under the Town's Tariff of Fees By-law;
- ✓ Second dwelling units are permitted in semi-detached dwellings and accessory buildings subject to meeting the zoning by-law requirements for such uses.
- f) The provision of affordable housing in intensification areas will be encouraged; and,
- ✓ The new lot will allow for a semi-detached dwelling to be constructed on the lands to be severed contributing to housing choice in the area. The Town has policies that permit second dwelling units in semi and single detached dwellings and accessory buildings that if employed would help foster housing affordability.
- g) The Town will consider innovations for responsive processing of applications and amendments in the future including tools such as Conditional Zoning Amendments implementing a Development Permit system and the streamlining of processing concurrent development applications.
- ✓ N/A

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;
 - ✓ Port Robinson is a public road that is maintained year-round.
- b) Will not cause a traffic hazard as a result of its location on a curve or a hill;
 - ✓ Not anticipated. Public Works did not raise any concerns with respect to traffic hazards. A driveway/entrance permit will be a condition of approval.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
 - ✓ The proposed lot meets the minimum lot frontage and lot area regulations of its respective zone.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
 - ✓ Services exist along Port Robinson Road and are available to service the development.
- e) Will not have a negative impact on the drainage patterns in the area;
 - ✓ Negative impacts are not anticipated. A lot grading and drainage plan will be required as a condition of consent to ensure drainage is handled on site.
- f) Will not affect the develop ability of the remainder of the lands, if they are designated for development by this Plan;
 - ✓ The proposal will not affect the developability of the remainder of the lands.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
 - ✓ No environmental features identified on site.
- h) Conforms with Regional lot creation policy as articulated in the Regional Policy Plan; and,
 - ✓ The proposal is compliant with the Regional Official Plan.
- i) Complies with the appropriate provincial Minimum Distance Separation Formulae, where applicable.
 - ✓ N/A

The Town's Cultural Heritage Master Plan identifies the subject lands as having composite potential for deeply buried archaeological resources. The applicant submitted an Archaeological Assessment with the ZBA application. The Town will require a copy of the Ministry of Citizenship and Multiculturalism clearance letter prior to any ground disturbance.

Town Planning staff are of the opinion the proposed severance conforms to the local Official Plan as it helps enable intensification within an existing neighbourhood and does not conflict with any policies subject to the satisfaction of the conditions of approval.

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

The subject lands are currently zoned Residential 2-157 (R2-157), per Town of Pelham By-law No. 09 (2024). A semi-detached and single detached dwelling are a permitted uses in this zone. The property was subject to a Zoning By-law Amendment application (AM-10-2023) to allow for the future residential development of the site. The amendment was approved by Council on February 21, 2024.

It is noted that both the severed and retained lots will comply with the zone provisions outlined in the approved zoning amendment.

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
 - Building permit approval is required for the proposed semi-detached dwelling on Part 1.
 - A Demolition permit approval is required for the existing detached garage on Part 1 and the site restored prior to consent finalization.
- Public Works Department
 - The newly created lots are to be self draining. The swale on the east property line of the new lot must be on private property not on property line. The swale on East side of 61 Port Robinson Road must be on private property.
 - Who is the applicant proposing will be responsible for the underground infrastructure located on part 1 and part 2?
 - The sump pump must discharge to grade do not connect to proposed RYCB.
 - The Town does not allow water services to be located under driveways, the water service for the existing house will need to be relocated to accommodate the proposed driveway.
 - The proposed concave driveway will collect and direct all runoff to the sidewalk which may cause ice to build up in winter months.

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

Planning Staff Comments:

Planning staff have reviewed the Planning Justification Report submitted by Upper Canada Consultants, as well as reviewed all agency and public correspondence submitted to date and the policy context as it relates to this application.

Through the ZBA process, the relocation of the driveway servicing the existing dwelling was raised. The East Fonthill Urban Design Guidelines encourage parking

areas to be located to the rear or side of dwellings to encourage an inviting streetscape. An existing hydro pole is currently located where the entrance would be to provide access to a parking area on the east side of the dwelling. The applicant met on site with NPEI to discuss the feasibility. The applicant has advised the pole is able to be moved at a reasonable cost and thus the applicant revised the plan to address staff comments on the ZBA.

The proposal is supported by the Town Official Plan policies that encourage infill within existing built-up areas. This supports the long-term public interest by minimizing the impact of sprawl on agricultural lands while supporting re-investment in existing communities to maintain their stability and vibrancy, providing for an efficient use of infrastructure and land, and contributing to the development of compact communities that foster walkability and a sense of place. The proposal, if approved would permit the creation of an additional residential lot. Staff do not anticipate any issues in terms of land use compatibility with the surrounding residential uses. Adequate parking and private amenity areas are provided for both Parts 1 and 2 and Staff are of the opinion that the proposal represents a good example of gentle intensification within the existing neighbourhood.

Planning Staff is of the opinion that the proposal is aligned with current planning and development goals. The redevelopment of this property for a single detached dwelling is a form of gentle form of residential intensification within an existing neighbourhood which will have minimal impact on adjacent land uses. The proposed severance is permitted by the current Zoning By-law approval for the lands.

In Planning Staff's opinion, the application is consistent with the PPS and conforms to Provincial, Regional and Local plans. The resulting parcel will comply with applicable Zoning By-law regulations upon the granting of the concurrent minor variance applications and is not anticipated to negatively impact the surrounding neighbourhood with respect to traffic, privacy, and stormwater management.

Planning Staff Recommendation:

Planning staff recommend that minor variance file B7/2024P **be approved** subject to the following condition(s):

THAT the applicant:

- Provide the Secretary-Treasurer with a registerable 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.
- Provide the final certification free of \$436, payable to the Treasurer, Town of Pelham, submitted to the Secretary-Treasurer. All costs associated with fulfilling conditions of consent shall be borne by the applicant.
- Sign the Town of Pelham's standard "Memorandum of Understanding" explaining that development charges and cash-in-lieu of the dedication of land for park purposes are required prior to the issuance of a Building Permit.

- The Owner agrees no demolition, grading or other soil disturbances shall take place on the subject land prior to the issuance of a Ministry of Citizen and Multiculturalism letter confirming that all archaeological resource concerns have been mitigated and meet licensing and resource conservation requirements.
- Town of Pelham Public Works Staff require that the applicant submit an overall lot grading and drainage plan to demonstrate that the drainage does not negatively impact nor rely on neighboring properties.
- Town of Pelham Public Works Staff require an updated grading plan and site servicing plan showing all proposed service connection locations.
- That the applicant confirm that no existing utilities currently cross the proposed new property line. Should any services cross this new property line, the applicant will be responsible for costs associated with their relocation and/or removal.
- A Construction of new or modification of existing driveways requires a Driveway Entrance Permit. This permit is obtained through the Public Works Department. All associated costs with this permit are the responsibility of the owner.
- Part 1 is to be individually serviced with its own sanitary and water connections. Installation of any services will require a Temporary Works Permit obtained through the Public Works Department. These works are to be completed prior to final consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete.
- That all necessary building permits be acquired prior to construction commencing, to the satisfaction of the Chief Building Official.
- A demolition permit approval is required for the existing detached garage on Part 1 and the site restored 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

**Engineering Department
Committee of Adjustment Report**

For

**B7-2024P
61 Port Robinson Road**

March 15th, 2024

Town staff have reviewed the following documentation for the purpose of **B7-2024P – 61 Port Robinson Road** consent application for:

Application is made for consent to a partial discharge of mortgage and consent to convey 634.4 square metres of land (Part 1), for future construction of a semi-detached dwelling. Part 2 is to be retained for continued residential use of the dwelling known municipally as 61 Port Robinson Road.

Introduction:

The lands subject to the application are known locally as 61 Port Robinson Road within the Fonthill Settlement Area of Pelham and are legally described as Part of Lot 17, Registered Plan 717. ("Subject Lands").

The Subject Lands are located on the north side of Port Robinson Road, east of Station Street and west of Rice Road (Regional Road 54). The property has been surveyed to measure 1,279.2 square metres (0.127 hectares / 0.31 acres) in total lot area with 33.49 metres (109.8 feet) of frontage along the north side of Port Robinson Road.

The application proposes to sever Part 1 from the remnant parcel (Part 2) in order to create one (1) new lot fronting Port Robinson Road for a future semi-detached dwelling. The existing single detached dwelling on Part 2 is to remain with a relocated driveway proposed on the lands.

Analysis:**Site Servicing and Grading Plan**

Part 1 is to be individually serviced with its own sanitary and water connections. Installation of any services will require a Temporary Works Permit obtained through the Public Works Department. These works are to be completed prior to consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete.

General Comments

Applicant should confirm that no existing utilities shall cross property line, relocation shall be the applicant's responsibility.

The applicant must obtain a Driveway Entrance and Culvert Permit from the Public Works department for the construction of all new or modification of existing driveways or entrances. Installation and/or modification of all entrances shall be completed in accordance with Town Standards by Town Staff.

Any structures or sidewalks that may impact or impede the side yard swales are not permitted.

Public Works offer the following comments:

- The newly created lots are to be self draining. The swale on the east property line of the new lot must be on private property not on property line.
- The swale on East side of 61 Port Robinson Road must be on private property.
- Who is the applicant proposing will be responsible for the underground infrastructure located on part 1 and part 2?
- The sump pump must discharge to grade do not connect to proposed RYCB.
- The Town does not allow water services to be located under driveways, the water service for the existing house will need to be relocated to accommodate the proposed driveway.
- The proposed concave driveway will collect and direct all runoff to the sidewalk which may cause ice to build up in winter months.

Public Works offer the following conditions:

- An updated grading plan and site servicing plan is required showing all proposed service connection locations.
- Part 1 is to be individually serviced with its own sanitary and water connections. Installation of any services will require a Temporary Works Permit obtained through the Public Works Department. These works are to be completed prior to consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete.
- Town of Pelham Public Works Staff require that the applicant submit an overall lot grading and drainage plan to demonstrate that the drainage does not negatively impact nor rely on neighboring properties.
- That the applicant confirm that no existing utilities currently cross the proposed new property line. Should any services cross this new property line, the applicant will be responsible for costs associated with their relocation and/or removal.
- A Construction of new or modification of existing driveways requires a Driveway Entrance Permit. This permit is obtained through the Public Works Department. All associated costs with this permit are the responsibility of the owner.

To: Sarah Leach

Cc: Andrew Edwards

From: Alex Foisey, Building Intake/Zoning Technician

Date: March 20th, 2024

Subject: Building Comments on Applications to the Committee of Adjustment for
61 Port Robinson Road
File Number: B7-2024P

Comments:

- A demolition Permit is required for the existing garage on Part 1, prior to submission of the proposed Semi-Detached building permit.
- Building Permit is required for proposed Semi-Detached Dwellings on part 1.

Respectfully,
Alex Foisey



Community Planning and Development Department
Committee of Adjustment
Tuesday, April 02, 2024

Consent Application: B4-2024P

Municipal Address: 201 Canboro Road

Legal Description: Part Lot 4, Concession 8 as in RO685205 (Part 1 on Sketch)

Roll number: 2732 020 010 10500

Location of Lands and Purpose of Application:

The subject parcel, shown as Part 1 on the attached sketch, has a frontage of 13.66m on the north side of Canboro Road, lying south of Highway 20 being Part Lot 4, Concession 8 in the Town of Pelham.

Application is made for consent to partial discharge of mortgage and consent to convey 380.9 square metres of land (Part 1), for future construction of a semi-detached dwelling. Part 3 is to be dedicated to the Town of Pelham for a road widening. Part 4 is to be retained for continued residential use.

The subject lands straddle the western boundary of the urban settlement area of Fonthill. The application proposes to sever the lands along the urban area boundary line and delineated boundary of the identified natural heritage features to create two new lots (Parts 1 & 2) for the construction of two semi-detached dwellings, for a total of four new residential dwelling units.

The lands currently contain three single detached dwellings and an existing detached garage. To facilitate the proposed development, the existing structures, save for the most westerly dwelling on Part 4 are proposed to be removed. In addition, a road widening of 3.0 metres (Part 3 on sketch) is proposed along the frontage of the remnant parcel, which is proposed to be transferred to the Town. Public Works staff have indicated they no longer require the road widening. As such, the retained parcel would constitute Parts 3 and 4 combined.

Part 1 is proposed to have a lot area of 380.9 square metres, with a frontage of 13.66 metres along Canboro Road. The applicant included a concept plan in addition to the severance sketch which shows the location of a proposed semi-detached dwelling on the lands. A minor variance is required to recognize a deficient rear yard setback.

Surrounding land uses include a woodland and intermittent tributary of Coyle Creek to the north, low density residential uses to the east and south, and agricultural uses to the west.

This application is being considered concurrently with Consent File B5-2024P, and minor variance applications A6-2024P and A7-2024P.

The applications were originally slated to be heard at the January 11, 2024 Committee of Adjustment hearing. At the January hearing the applicant requested the applications be deferred until such time as they were able to address comments received on the originally consent applications.

The proposal was revised to shift the rear lot line closer to the street to maintain a larger separation from the physical top of slope. As a result, the proposed lots are smaller in lot area than originally proposed, as the location of the rear lot line has shifted.

Applicable Planning Policies:

Planning Act

Applications for consent shall have regard to provincial interests and the *Planning Act* land division criteria, contained under Section 51(24) of the *Planning Act*:

- a) The development's effect on provincial matters of interest;
 - See PPS and Growth Plan analysis in sections below.
- b) Whether the proposed subdivision is premature or in the public interest;
 - Please refer to discussion below.
- c) Whether the plan conforms to the Official Plan and adjacent plans of subdivisions, if any;
 - See Official Plan discussion below.
- d) The suitability of the land for such purposes;
 - The lands are located within the urban area and will provide for gentle intensification.
- f) The dimensions and shapes of the proposed lots;
 - The dimensions of the proposed lot are compliant with the zoning by-law.
- h) Conservation of natural resources and flood control;
 - An Environmental Impact Study was prepared and submitted with the application. Please refer to planning comments below.
- i) The adequacy of utilities and municipal services;
 - There is an existing regional 300 mm diameter watermain along Canboro Road, which is considered adequate for domestic water supply to the four (4) semi-detached dwellings. The proposed lots will connect to this watermain via a 25 mm lateral connection. Sanitary services will be provided by extending an existing 75 mm diameter HDPE sanitary forcemain approximately 21 m to the west, to allow connection of the four (4) semi-detached dwellings.

- j) The adequacy of school sites;
 - Available nearby. School Boards did not comment on application.

Planning staff are of the opinion the applicant for consent does not have regard for the *Planning Act*.

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.

Section 3 of the *Planning Act* requires that decisions affecting planning matters “shall be consistent with” policy statements issued under the Act. The PPS recognizes the diversity of Ontario, and that local context is important. Policies are outcome-oriented, and some policies provide flexibility provided that provincial interests are upheld. PPS policies represent minimum standards.

The PPS designates Parts 3 and 4 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 Parts 1 and 2 are located outside the Specialty Crop Area and are 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. Policy 1.1.3.2 states that land use patterns within settlement areas shall be based on a range of densities and mix of land uses that efficiently use land and resources, are appropriate for and efficiently use infrastructure and public service facilities, minimize negative impacts to air quality and climate change and promote energy efficiency, prepare for the impacts of a changing climate, support active transportation and are transit and freight supportive.

Policy 1.1.3.3 provides for the promotion of intensification and redevelopment accommodating a significant supply and range of housing options where it can be accommodated considering the building stock, availability of existing and planned infrastructure and public service facilities required to accommodate the needs of the development.

Infill development is an acceptable form of intensification so long as new development is compatible in nature, is compact, and avoids adverse impacts to provincial interest, public health, safety, and the quality of the human environment.

Significant natural features are referenced in section 2.1 of the 2020 Provincial Policy Statement (PPS), namely: Significant Wetlands; Significant Woodlands; Significant Valleyland; Significant Wildlife Habitat (SWH); Significant Areas of Natural and Scientific Interest (ANSIs); Habitat of Endangered and Threatened Species; and Fish

Habitat. Per the Environmental Impact Study submitted with the application, the following were confirmed on site: significant woodlands, significant valleylands, significant wildlife habitat, and habitat of endangered and threatened species.

The PPS states that natural features and areas shall be protected for the long term (Policy 2.1.1) and that their diversity and connectivity be maintained, restored or, where possible, improved (Policy 2.1.2). The EIS submitted with the application states that no negative impacts to the Significant Woodland, Significant Valleyland, and candidate/confirmed Significant Wildlife Habitat are anticipated given implementation of the proposed development plan provided that the recommended mitigation measures of the EIS are implemented in full.

Planning Staff are of the opinion the proposed consent is consistent with the Provincial Policy Statement subject to the findings and implementation of the recommendations of the EIS.

Greenbelt Plan (2017)

The Greenbelt Plan, 2017 ("Greenbelt Plan") designates a portion of the subject lands as Protected Countryside. According to the Provincial Policy Statement, 2020 ("PPS") and Niagara Official Plan, 2022 ("NOP"), Parts 1 and 2 are located outside the Specialty Crop Area and are designated as a Settlement Area under the PPS and NOP, and as such, the policies of the Greenbelt Plan do not apply to the subject lands.

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.

Within the Natural Heritage System for the Growth Plan, new development or site alternative will demonstrate that there are no negative impacts on key natural heritage features.

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.

Policy 2.2.2.1(a) requires a minimum of 50 percent of all new residential development to occur within the delineated built-up area.

Policy 2.2.2.3(b) encourages intensification generally throughout the built-up area and investment in services that will support intensification.

The additional residential lot will help the Town to meet or exceed its *delineated built boundary* intensification targets. The proposed lot will help contribute towards the municipal property tax base which helps financially support the maintenance of linear infrastructure and *public service facilities*. The lands will be required to connect to municipal services as a condition of consent approval.

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

Niagara Region Official Plan (2022)

The Region of Niagara adopted a new Official Plan on June 23, 2022. Approval was granted by the Province on November 7, 2022. The new Region of Niagara Official Plan ("NOP") provides the policy guidance for future development across the Region. The easterly portion of the Subject Lands are located within a Settlement Area under the PPS and are designated Delineated Built-Up Area in the NOP. The northerly portion of lands are designated Specialty Crop Area with a Natural Environment System Overlay containing Significant Woodlands, Other Wetlands and non-Provincially Significant Wetlands.

A pre-consultation meeting for the proposal was held on March 17, 2022, prior to the approval of the NOP by the Minister of Municipal Affairs and Housing on November 4, 2022. Policy 3.1.30.3.1 of the NOP states that, where a formal pre-consultation meeting has been completed within one (1) year of the approval of the NOP, and environmental requirements have been established through a signed pre-consultation agreement that has not expired, required environmental studies may be evaluated in accordance with the Regional policies that existed at the time the pre-consultation meeting was completed (provided the application is submitted within two years of the approval of the NOP). Accordingly, the environmental policies of the previous Regional Official Plan, 2014 ("ROP") apply to the proposal.

The eastern portion are located within a Settlement Area under the Provincial Policy Statement (PPS), designated Delineated Built-Up Area in A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan) and designated Urban Area (Built-Up Area) in the Regional Official Plan (ROP). Under the ROP, a full range of residential, commercial, and industrial uses are permitted generally within the Urban Area designation, subject to the availability of adequate municipal services and infrastructure, local official plan policies, and other ROP policies relative to land use compatibility and environmental conservation.

The western portion are designated as being within a Prime Agricultural Area, and more specifically within a Specialty Crop Area, under the Provincial Policy Statement (PPS), within the Protected Countryside, and more specifically within the Specialty Crop Area – Niagara Peninsula Tender Fruit and Grape Area, under the Greenbelt Plan, and within Prime Agricultural Lands under the Regional Official Plan (ROP). The ROP also identifies this portion of the subject property as being located outside the Urban Area Boundary for the Town of Pelham.

Parts 3 and 4 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 use of the parcel is not proposed to change as the lands are intended to be retained for their existing residential use.

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 lands have split land use designations. The easterly portion of the lands are designated Urban Living Area/Built Boundary, while the northerly and westerly portions of the lands are designated Environmental Protection Three (EP3), Specialty Agricultural, and having Greenbelt Natural Heritage Overlay.

A "Wooded Area" is shown through the rear of the Subject Property per Schedule B (Environmental Features) while a "Valleyland" is shown per Schedule B1 (Subwatersheds and Subwatershed Features).

Policy B3.4.4.1 states: new development and/or site alteration is not anticipated within the EP3 designation, and any proposal for development or site alteration within 120 m of any feature within the EP3 designation will be supported by an EIS, the primary purpose of which is to identify a self-sustaining vegetation protection zone. The EIS is to be prepared to the satisfaction of the Region in consultation with the Town and NPCA. The vegetation protection zone shall be determined at the time of a planning approval.

The lands are identified as containing Valleyland, per Schedule B1.

Policy B3.7.3.1 provides that no new development, site alteration or lot creation shall be permitted in areas located within the Valleyland designation. All development shall generally be directed to areas outside of the Valleyland designation. Lands within the Valleyland designation are encouraged to be maintained in a natural state with no disturbances of grades or existing vegetation. Where permitted, all new development, site alteration and lot creation shall ensure that overland drainage is directed away from valley slopes and that proper construction measures are taken to protect valley vegetation in accordance with NPCA requirements.

A slope stability assessment was submitted with the original application. Through a review of the application, the NPCA noted that the physical top of slope referenced in the report appeared not to be the top of slope identified in the concept plan. A site visit was conducted on January 24, 2024, to cross reference the drawings with the on the ground site conditions. Following the site visit the NPCA provided further comments requiring revisions to the slope stability assessment.

The natural heritage policy framework the application must meet is the test of “no negative impact” to the Significant Woodland, Significant Valleyland, and Significant Wildlife Habitat identified on site. An Environmental Impact Study was submitted with the application which concluded, upon the implementation of its recommendations, there would be no negative impact on the natural heritage features identified on site. Accordingly, it will be a recommended condition of approval that the owner enter into a development agreement with the Town to ensure that all recommendations of the EIS are implemented.

The concept plan shows a setback of 3.46 metres from the dripline to the rear lot line. The proposed semi-detached dwellings maintain a setback of 5.75 metres from the proposed lot line.

Policy B1.1.3 states that in considering residential intensification proposals, the following criteria are applicable:

- a) Schedules A1 and A2 to this Plan identify a number of areas that may be good candidates for residential intensification. This does not preclude consideration for other sites in the Urban Living Area designation provided these sites abut arterial or collector roads or are located on a local road on a site that is no further than 100 metres from an intersection with an arterial or collector road;
 - ✓ N/A. The site is located on Canboro Road which is identified as an Arterial Road.
- b) Intensification and redevelopment proposals are encouraged to achieve a unit density and housing type that is in keeping with the character of the density of the neighbourhood where it is proposed. Within the identified intensification areas identified on Schedules A1 and A2 the implementing Zoning By-law may establish minimum and maximum densities of between 10 and 25 units per hectare;
 - ✓ The subject lands are not within an identified intensification area. However, they are located on an Arterial Road which is an appropriate location for gentle intensification.
- c) Residential intensification and redevelopment proposals located on lands which abut local roads shall maintain the unit density and unit type of the surrounding neighbourhood, but may through a Zoning By-law Amendment, increase the unit density by up to 25% of the existing gross density of lands located within 300 metres of the site, provided the resultant development will be characterized by quality design and landscaping, suitable building setbacks, and further that parking areas and traffic movements will not negatively impact the surrounding neighbourhood from the perspectives of safety or neighbourhood character;
 - ✓ N/A. The lands are located on an Arterial Road.
- d) Notwithstanding items (b) and (c), the creation of new freehold or vacant condominium infill lots through the consent process, for ground-oriented detached dwellings, may be permitted provided the proposed lot and unit type is similar to and compatible with the established character of the street or neighbourhood where it is proposed. The Zoning By-law shall establish

minimum lot area and frontages and minimum and/or maximum densities which are considered appropriate within the Urban Living Area designation;

- ✓ The scale of the proposed development is similar to and compatible with the established character along Canboro Road.
- e) The creation of accessory apartments and in-law suites within residential neighbourhoods is considered to be an appropriate form of residential intensification. The establishment of accessory apartments shall occur in accordance with Policy B1.1.4 and Council may reduce the application fee for such amendments under the Town's Tariff of Fees By-law;
 - ✓ Second dwelling units are permitted in semi-detached dwellings and accessory buildings subject to meeting the zoning by-law requirements for such uses. The proposed application is for a new semi-detached dwelling.
- f) The provision of affordable housing in intensification areas will be encouraged; and,
 - ✓ The new lot will allow for an additional residential dwelling unit. The Town does have policies that permit second dwelling units in semi-detached dwellings and accessory buildings that if employed would help foster housing affordability.
- g) The Town will consider innovations for responsive processing of applications and amendments in the future including tools such as Conditional Zoning Amendments implementing a Development Permit system and the streamlining of processing concurrent development applications.
 - ✓ N/A

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;
 - ✓ Canboro Road is a public road that is maintained year-round.
- b) Will not cause a traffic hazard as a result of its location on a curve or a hill;
 - ✓ No issues are anticipated given the existing sightlines along Canboro Road.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
 - ✓ Yes, the severed lands meet the provisions of the Zoning By-law following approval of the concurrent minor variance application to address the deficient rear yard setback.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
 - ✓ Yes. Services exist and are available to service the development. The servicing strategy is outlined in the Functional Servicing Report.
- e) Will not have a negative impact on the drainage patterns in the area;
 - ✓ A Lot Grading & Drainage Plan was prepared and submitted with the application.
- f) Will not affect the developability of the remainder of the lands, if they are designated for development by this Plan;

- ✓ A concurrent application for consent is also being considered for the remainder of the portion of the lands in the Urban Area boundary.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
 - ✓ An Environmental Impact Study was submitted with the application which concluded, upon the implementation of its recommendations, there would be no negative impact on the natural heritage features identified on site. Accordingly, it will be a recommended condition of approval that the owner enter into a development agreement with the Town to ensure that all recommendations of the EIS are implemented.
- h) Conforms with Regional lot creation policy as articulated in the Regional Policy Plan; and,
 - ✓ The consent conforms with the Regional Official Plan. Please refer to Regional comments below.
- i) Complies with the appropriate provincial Minimum Distance Separation Formulae, where applicable.
 - ✓ N/A.

The Town's Cultural Heritage Master Plan identifies the subject lands as having composite potential for deeply buried archaeological resources. As such, the applicant submitted a stage 1-2 Archaeological Assessment which found no archaeological resources in the study area. No further archaeological assessment of the study area was recommended. The applicant provided a clearance letter (s) from the Ministry of Citizenship and Multiculturalism.

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

The easterly portion of the subject lands within the settlement area are currently zoned Residential Two (R2) Zone and Environmental Protection One (EP1) Zone. The westerly portion of the site are zoned Environmental Protection One (EP1), Environmental Protection Three (EP3), and having Greenbelt Natural Heritage Overlay.

A semi-detached dwelling is a permitted use in the R2 zone. Section 1.5(b)(ii) of the Zoning By-law states: The Environmental Protection One (EP1), Environmental Protection Two (EP2), Environmental Protection Three (EP3) and Open Space (OS) Zones boundary generally reflects the natural features and the location of the boundary may be determined by lot line, road, rail line, or where the zone does not abut any of the above, by the scale of the map or as confirmed through an Environmental Impact Study.

Concurrent minor variance applications have been submitted with the revised proposal which are intended to address the deficient rear yard setbacks for the two new lots.

Submitted Materials:

An Environmental Impact Study prepared by Terrastory Environmental Consulting Inc. was submitted with the application. The study provides a description of the proposed development, identifies natural features with ecological and policy significance, and recommendations to avoid or minimize impacts. The following natural features were identified on site:

- A mature Carolinian deciduous forest identified as a Significant Woodland, and overlapping a Significant Valleyland;
- Significant woodland habitat for a provincially rare tree species and special concern bird species;
- An intermittent watercourse; and,
- An eastern flowering dogwood (endangered tree species).

A set of recommendations and mitigation measures was presented to achieve “no negative impact” and address applicable municipal, provincial, and federal policies. These included the preparation of a “Woodland Enhancement Plan” incorporating a diversity of native tree and shrub plantings (including Pignut Hickory), timing restriction on vegetation removal to protect nesting birds and roosting bats, and addressing Endangered Species Act requirements as they pertain to Eastern Flowering Dogwood.

Agency and Public Comments:

On March 6, 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
 - A Building permit is required for proposed semi-detached dwelling on Part 1.
 - A Demolition permit is required for any structures being removed.
- Public Works Department
 - Please be advised that no sideyard walkways that impede sideyard swales shall be permitted
 - Please note that the Town does not allow any service connections for Part 4 as it is not within the urban boundary.
 - The 2 units in the proposed Part 1 lot are to be individually serviced with its own sanitary and water connections if permitted. This work is to be done by the owner, at the owner’s expense, and will require a Temporary Works Permit. Should these services cross property lines, Public Works will not support the consent to sever. These works are to be completed prior to consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete.
 - Site Servicing Plan is required for this application.
 - Town of Pelham Public Works Staff require that the applicant submit an overall lot grading and drainage plan to demonstrate that the

drainage does not negatively impact nor rely on neighboring properties.

- That the applicant confirm that no existing utilities currently cross the proposed new property line. Should any services cross this new property line, the applicant will be responsible for costs associated with their relocation and/or removal.
 - A Construction of new or modification of existing driveways requires a Driveway Entrance Permit. This permit is obtained through the Public Works Department. All associated costs with this permit are the responsibility of the owner.
- Niagara Region
 - Staff acknowledge that the applications for Consent are confined to the Settlement Area/Delineated Built-Up Area, where population growth will be accommodated primarily through intensification, and that no new lots or development are proposed in the Specialty Crop Area.
 - Regional staff recommend the inclusion of the standard archaeological clauses in the development agreement relating to deeply buried archaeological materials that may be encountered during grading and construction activities. Regional staff advise that any future development outside of the study area will require a separate Stage 1-2 archaeological assessment.
 - Staff is satisfied with the natural heritage and environmental system characterization of the subject lands and if the recommendations and mitigation strategy outlined in the EIS are implemented, the Region is satisfied that the ROP's policy test of 'no significant negative impact' to the CNHS has been achieved. However, the CNHS feature that has been characterized as high-functioning and the 0 metre setback is not sufficient to meet the 'no negative impact' test of the PPS. As such, the Region recommends the buffer width adjacent to the woodland/valleyland be maximized to extent possible to ensure no negative impacts to the adjacent woodland and valleyland. Staff, therefore, recommend that an updated Consent sketch be provided to the Region and Town for review that is consistent with and satisfactorily addresses the PPS test. Should the proposed lot fabric be deemed appropriate by the Committee, recommended conditions of approval relating to each proposed new lot are provided to ensure EIS recommendations and mitigation measures are implemented.
 - The only watermain available is a Regional hybrid watermain. The Region will require that detailed engineering plans be provided for the proposed water servicing for the two new lots. A Regional connection permit will be required for connections to the watermain. To obtain the connection permit a letter from the Town, detailed engineering drawings and a fee are required to be submitted to the Region. The applicant is responsible for the fees and the preparation of the detailed engineering drawings.

- Regional Private Sewage System staff conducted an on-site inspection on December 21, 2023. The property currently contains three dwellings that are privately serviced by sewage systems to the north. The existing septic tanks are located north of the dwellings and are to be decommissioned prior to the connection to municipal sewers or demolition. Staff advise that a tank decommissioning application issued by the Niagara Region will be required prior to demolition of the existing dwellings. Staff received additional information indicating that the retained parcel has a replacement sewage system area. A percolation test was completed on-site which concluded an inground sewage system could be installed on the property in the future. No defects were observed with the system at the time of inspection; however, this system is considered legal non-conforming as it contains a single chamber tank, and the bed is located in a steep slope. Any future changes to the dwelling on the retained parcel which increase sewage flows would require a new sewage system in the replacement area to be installed. Staff note that all trees and driveway surfaces will need to be removed to ensure that the minimum building code setback area is achieved as per the Ontario Building Code (O. Reg. 332/12). The setbacks include 1.5 m from the septic tank to a structure and 5m from the septic bed to a structure (driveway). Regional staff has no objection to the applications from a private servicing perspective, provided the two existing septic tanks are properly decommissioned and tank decommissioning applications are submitted to the Region.

- The subject property has frontage on Canboro Road, which is designated as part of the Regional Niagara Bicycling Network. If the bicycle routes are currently not established and identified with signage, it is the intent of the Region to make provisions for doing so when an appropriate opportunity arises. This may involve additional pavement width, elimination of on-street parking, etc.
- Niagara Peninsula Conservation Authority (NPCA)
 - Technical staff have had a review of the reviewed material and are satisfied that NPCA comments have been addressed.
 - As such, the NPCA can support the severance application.
 - Please note that any proposed development will require NPCA approval and possible work permits.

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

Planning Staff Comments:

A Pre-consultation Meeting was held on March 17, 2022 with staff from the Town, Niagara Region, and Niagara Peninsula Conservation Authority (NPCA) to confirm the overall submission requirements, which included a supporting EIS. A Terms of Reference (ToR) for the EIS was prepared and approved by the NPCA and Region.

Planning staff have reviewed all submitted materials, as well as reviewed all agency and public correspondence submitted to date and the policy context as it relates to this application.

As previously noted, a site visit was conducted on January 24, 2024, to cross reference the drawings with the on the ground site conditions. Following the site visit the NPCA provided further comments requiring revisions to the slope stability assessment. The concept plan was revised to address comments from NPCA staff following the site visit.

With the revised application, the applicant submitted a revised planning opinion letter, revised concept plan and severance sketch, the revised slope stability assessment, and supplementary slope stability assessment.

Notwithstanding the application contains lands with natural heritage features, the submitted Environmental Impact Study found no anticipated negative impacts to the Significant Woodland, Significant Valleyland, and candidate/confirmed Significant Wildlife Habitat given implementation of the proposed development plan provided that the recommended mitigation measures are implemented in full. A development agreement will be required to ensure the recommendation are implemented in full. The application, if approved, will result in the removal of an existing septic system within the valleyland, development will be further setback from the feature than the existing development, and the implementation of a Woodland Enhancement Plan that will ensure the ecological functions of the woodland/valleyland will be enhanced beyond existing conditions.

Generally, the redevelopment of this property for a semi-detached dwelling is a gentle form of residential intensification within an existing neighbourhood which will have minimal impact on adjacent land uses. The proposed severance is not considering more development than permitted by the current Zoning By-law.

Public Works staff have indicated that the proposed road widening is no longer required. As such, the Town will not require the road widening be dedicated to the town. The severance sketch should be updated to remove the widening.

Planning Staff Recommendation:

Planning staff recommend that Consent Application file B4/2024P **be approved** subject to the following conditions:

THAT the applicant:

- Provide the Secretary-Treasurer with a registerable 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.
- Provide the final certification free of \$436, payable to the Treasurer, Town of Pelham, submitted to the Secretary-Treasurer. All costs associated with fulfilling conditions of consent shall be borne by the applicant.
- That the applicant confirm that no existing utilities currently cross the proposed new property line. Should any services cross this new property line, the applicant will be responsible for costs associated with their relocation and/or removal.
- Town of Pelham Public Works Staff require that the applicant submit an overall lot grading and drainage plan to demonstrate that the drainage does not negatively impact nor rely on neighboring properties.
- Sign the Town of Pelham's standard "Memorandum of Understanding" explaining that development charges and cash-in-lieu of the dedication of land for park purposes are required prior to the issuance of a Building Permit.
- Enter into a Development Agreement with the Town for Part 1, to ensure that all recommendations of the Environmental Impact Study (dated November 29, 2023) are implemented to the satisfaction of the Director of Community Planning and Development, including but not limited to:
 - a) That a Tree Preservation Plan (TPP) be prepared, to the satisfaction of Niagara Region, that indicates any trees that need to be removed to allow for the development of Part 1. The TPP should be prepared in accordance with the Region's Woodland Conservation By-law (By-law 20-79).
 - b) That the development agreement contain wording wherein the owner agrees to implement the approved Tree Preservation Plan, prior to construction.
 - c) Any necessary tree removal and demolition of the existing buildings or structures will take place between October 1 and April 30 to avoid the active season for bats. Should minor tree removal be required

between May 1 and September 30, a qualified professional will complete an exit survey of suitable maternal roosting sites identified for removal a maximum of 24 hours before removal. The exit survey must make use of a bat detector and will occur for no less than the time period between sunset and 60 minutes after sunset. If an Endangered bat is identified during the survey, Ministry of the Environment, Conservation and Parks (MECP) should be contacted to obtain further direction prior to removal of the tree.

- d) If construction activities occur during the active bat season (i.e., May 1 and September 30), work will be restricted to daylight hours only and the use of artificial lighting will be avoided.
- e) Any lighting incorporated into the final building designs should be directed downward (i.e., towards the ground) and/or away from the adjacent woodlot (i.e., directed eastward) to the extent practicable.
- f) The removal of trees will be restricted to areas in direct conflict with the footprints of the proposed development features (e.g., residence, septic system, driveway, etc.) and grading, along with any hazardous trees in the immediate vicinity that pose an unacceptable risk to human life or property.
- g) All necessary vegetation removal will be completed outside the primary bird nesting period (i.e., to be completed between September 1 and March 31). Should minor vegetation removal be proposed during the bird nesting period, a bird nesting survey will be undertaken to confirm the presence or absence of nesting birds or bird nests within or adjacent to the areas subject to vegetation clearance. The survey is to take place within 48 hours of vegetation removal.
- h) Incorporation of Bird-Friendly Guidelines into the residence design such as those published in City of Toronto's "Best Practices for Bird-Friendly Glass" and "Best Practices for Effective Lighting" should be considered at detailed design.
- i) Any Landscape Plans prepared as part of the development approval should incorporate species native to the local landscape.
- j) That a light duty silt fence be installed at the limit of any excavation and grading to delineate the work area and help minimize impacts (e.g., sedimentation and accidental encroachment) to adjacent vegetation and that the silt fence be properly embedded (as per Ontario Provincial Standard Specification 805) into the ground to reduce any offsite movement of silt. The silt fence used should be one that does not include a mesh component, to avoid risk of entanglement of wildlife.
- k) That the contractor has a spill kit on site to minimize potential contamination from accidental spills. The equipment should be inspected for leaks and refueling be completed in accordance with best management practices and at least 30 m away from the woodland.
- l) That continuous, permanent fencing be installed along the rear property line, adjacent to the Significant Woodland, to delineate property boundaries to limit potential encroachment into the woodland.

- Enter into a Development Agreement with the Town for Part 4, to ensure that all recommendations of the Environmental Impact Study (dated November 29, 2023) are implemented to the satisfaction of the Director of Community Planning and Development, including but not limited to:
 - a) That a Woodland Enhancement Plan be prepared, to the satisfaction of Niagara Region, for the area indicated on Figure 3 of the EIS. The Plan shall consist of a diversity of native tree and shrub plantings and incorporate wildlife habitat enhancement elements. Plantings of Pignut Hickory shall be incorporated into the Woodland Enhancement Plan
 - b) That a Tree Preservation Plan (TPP) be prepared, to the satisfaction of Niagara Region, that indicates any trees that need to be removed to allow for the development of Part 4. The TPP should be prepared in accordance with the
 - Region's Woodland Conservation By-law (By-law 20-79).
 - c) That the development agreement contain wording wherein the owner agrees to implement the approved Tree Preservation Plan and Woodland Enhancement Plan, prior to construction.
 - d) That tree protection fencing be installed surrounding the Eastern Flowering Dogwood at the time of construction to avoid incidental mechanical damage to the trunk, branches, or roots.
 - e) Any necessary tree removal and demolition of the existing buildings or structure will take place between October 1 and April 30 to avoid the active season for bats. Should minor tree removal be required between May 1 and September 30, a qualified professional will complete an exit survey of suitable maternal roosting sites identified for removal a maximum of 24 hours before removal. The exit survey must make use of a bat detector and will occur for no less than the time period between sunset and 60 minutes after sunset. If an Endangered bat is identified during the survey, Ministry of the Environment, Conservation and Parks (MECP) should be contacted to obtain further direction prior to removal of the tree.
 - f) If construction activities occur during the active bat season (i.e., May 1 and September 30), work will be restricted to daylight hours only and the use of artificial lighting will be avoided.
 - g) The removal of trees will be restricted to areas in direct conflict with the footprints of the proposed development features (e.g., residence, septic system, driveway, etc.) and grading, along with any hazardous trees in the immediate vicinity that pose an unacceptable risk to human life or property.
 - h) All necessary vegetation removal will be completed outside the primary bird nesting period (i.e., to be completed between September 1 and March 31). Should minor vegetation removal be proposed during the bird nesting period, a bird nesting survey will be undertaken to confirm the presence or absence of nesting birds or bird nests within or adjacent to the areas subject to vegetation clearance. The survey is to take place within 48 hours of vegetation removal.
 - i) Any Landscape Plans prepared as part of the development approval should incorporate species native to the local landscape.

- j) That a light duty silt fence be installed at the limit of any excavation and grading to delineate the work area and help minimize impacts (e.g., sedimentation and accidental encroachment) to adjacent vegetation and that the silt fence be properly embedded (as per Ontario Provincial Standard Specification 805) into the ground to reduce any offsite movement of silt. The silt fence used should be one that does not include a mesh component, to avoid risk of entanglement of wildlife.
- k) That the contractor has a spill kit on site to minimize potential contamination from accidental spills. The equipment should be inspected for leaks and refueling be completed in accordance with best management practices and at least 30 m away from the woodland.
- That the following archaeological advisory clause be inserted in the Development Agreement between the landowner and Town of Pelham:

"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 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."

- That final approval of all necessary zoning approvals be obtained for Part 1, through the approval of minor variance application A6-2024P.
- 2 units in the proposed Part 1 lot are to be individually serviced with its own sanitary and water connections if permitted. This work is to be done by the owner, at the owner's expense, and will require a Temporary Works Permit. Should these services cross property lines, Public Works will not support the consent to sever. These works are to be completed prior to consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete.
- Town staff will require a Site Servicing Plan, to the Satisfaction of the Director of Public Works.
- A Construction of new or modification of existing driveways requires a Driveway Entrance Permit. This permit is obtained through the Public Works Department. All associated costs with this permit are the responsibility of the owner.
- Apply for and receive approval for NPCA work permits, if necessary.

Prepared and Submitted by:

Andrew Edwards, BES
Planner

Recommended by:

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

**Engineering Department
Committee of Adjustment Report**

For

**B4-2024P
201 Canboro Road Part 1**

March 20, 2024

Town staff have reviewed the following documentation for the purpose of **B4-2024P – 201 Canboro Road Part 1** consent application for:

Application is made for consent to partial discharge of mortgage and consent to convey 404 square metres of land (Part 1), for future construction of a semi-detached dwelling. Part 3 is to be dedicated to the Town of Pelham for a road widening. Part 4 is to be retained for continued residential use.

This application is being considered concurrently with Consent File B5-2024P.

Introduction:

The subject parcel, shown as Part 1 on the attached sketch, has a frontage of 13.66m on the north side of Canboro Road, lying south of Highway 20 being Part Lot 4, Concession 8 in the Town of Pelham.

The purpose and effect of the application is to create two (2) new parcels for future residential use. The applications propose to sever two (2) parcels from the remnant parcel, resulting in a total of three (3) parcels on lands known municipally as 201 Canboro Road in the Town of Pelham. Three (3) single detached dwellings are currently present on the lands along with a detached garage. The most westerly dwelling is proposed to remain while the rest of the structures are proposed to be removed in order to accommodate the future dwellings.

Analysis:**Functional Servicing Report**

FSR indicates that the 2 units in the proposed Part 1 lot are to be individually serviced with its own sanitary and water connections.

Water Services

The FSR submitted states that the existing regional watermain tap will require approval and permit from the region. The Town will also require a Temporary Works Permit to carry out this work should this be approved. These works are to be completed prior to consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete.

General Comments

Applicant should confirm that no existing utilities shall cross property line, relocation shall be the applicant's responsibility.

A Construction of new or modification of existing driveways requires a Driveway Entrance Permit. This permit is obtained through the Public Works Department. All associated costs with this permit are the responsibility of the owner.

Public Works offer the following comment:

- Please be advised that no sideyard walkways that impede sideyard swales shall be permitted
- Please note that the Town does not allow any service connections for Part 4 as it is not within the urban boundary.

Public Works offer the following conditions:

- 2 units in the proposed Part 1 lot are to be individually serviced with its own sanitary and water connections if permitted. This work is to be done by the owner, at the owner's expense, and will require a Temporary Works Permit. Should these services cross property lines, Public Works will not support the consent to sever. These works are to be completed prior to consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete.
- Site Servicing Plan is required for this application.
- Town of Pelham Public Works Staff require that the applicant submit an overall lot grading and drainage plan to demonstrate that the drainage does not negatively impact nor rely on neighboring properties.
- That the applicant confirm that no existing utilities currently cross the proposed new property line. Should any services cross this new property line, the applicant will be responsible for costs associated with their relocation and/or removal.
- A Construction of new or modification of existing driveways requires a Driveway Entrance Permit. This permit is obtained through the Public Works Department. All associated costs with this permit are the responsibility of the owner.

To: Sarah Leach

Cc: Andrew Edwards

From: Alex Foisey, Building Intake/Zoning Technician

Date: March 20th, 2024

Subject: Building Comments on Applications to the Committee of Adjustment for
201 Canboro Road – Part 1

File Number: B4-2024P

Comments:

Building Permit is required for proposed Semi-Detached Dwelling

Respectfully,
Alex Foisey

Growth Management and Planning Division

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

Via Email

March 19, 2024

Regional File: D.06.06.CS-23-0114, D.06.06.CS-23-0115

Sarah Leach
Deputy Clerk/Secretary-Treasurer
Town of Pelham
20 Pelham Town Square, P.O. Box 400
Fonthill, ON L0S 1E0

Dear Ms. Leach:

Re: Regional and Provincial Review Comments
Consent Applications
Town File: B4-2024P, B5-2024P, A6-2024P & A7-2024P
Owner: [REDACTED]
Agent/Applicant: [REDACTED]
201 Canboro Road
Town of Pelham

Regional Growth Management and Planning Division staff has reviewed the materials circulated with the two Consent applications for the lands located at 201 Canboro Road in the Town of Pelham ("subject lands").

The applicant is proposing consent to partial discharge of mortgage and consent to convey 404 sq. m of land ("Part 1") and 401 sq. m. of land ("Part 2") for future construction of semi-detached dwellings. The lands referred to as "Part 3" are to be dedicated to the Town of Pelham for a road widening. The remaining land ("Part 4") is to be retained for continued residential use.

A pre-consultation meeting for the applications was held on March 17, 2022. Staff provided comments on the initial submission of the application in a letter dated December 21, 2023. At this time staff were unable to support the application due to concerns relating to the septic system requirements, and the application was deferred.

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

Provincial and Regional Policies

The subject lands are located partially within the Settlement Area (Part 1 and 2 and the northeastern portion of Part 4 ("remnant parcel") and partially within the Prime Agricultural Area (and more specifically the Speciality Crop Area) (the remaining lands of Part 4) under the *Provincial Policy Statement, 2020* (PPS). A majority of the property is located within the Protected Countryside – Niagara Tender Fruit and Grape Area - within the *Greenbelt Plan, 2017* ("Greenbelt Plan"). The lands are designated in part as Delineated Built-Up Area (Part 1 and 2

and the northeastern portion of the remnant parcel) and in part as Specialty Crop Area (remaining lands of the remnant parcel) within the *Niagara Official Plan, 2022* ("NOP"). Staff acknowledge that the applications for Consent are confined to the Settlement Area/Delineated Built-Up Area, where population growth will be accommodated primarily through intensification, and that no new lots or development are proposed in the Specialty Crop Area.

Regional staff has reviewed the *Planning Brief* prepared by Upper Canada Consultants (no date). Staff acknowledge that the lands proposed to be severed are located entirely within the Urban/Settlement Area and, therefore, the proposal does not result in the creation of an additional new residential lot within the agricultural land base. Further, the Brief notes that the proposed residential development (semi-detached dwelling) would expand the range of available housing options and increase the housing supply, which is consistent with Provincial and Regional policies. The Brief references the Environmental Impact Study ("EIS") completed for the subject property, which identifies and assesses the proposals impact on the natural heritage features on the subject property (see the 'Natural Environment System' section below).

Overall, staff is satisfied with the analysis provided in the Planning Brief and have no further comments from a planning perspective.

Archaeological Resources

The subject property falls within the 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.

Staff has reviewed the *Stage 1-2 Archaeological Assessment* prepared by Detritus Consulting Ltd. (dated November 7, 2022). Based on recommendations from the Town, the assessment was limited to the lands subject to development and ground disturbance ("study area"), which makes up 0.37 ha of the 0.88 ha lot. The Stage 1 assessment identified six archaeological sites within a 1 kilometre radius of the study area. The assessments indicates that there is land disturbance from the existing buildings/structure on the property, which may eradicate archaeological potential. It was recommended that these areas be subject to a Stage 2 field assessment to confirm and document the degree and extent of disturbance.

The Stage 2 field assessment was conducted on August 25, 2022 which included test pit surveying of the treed area, side and backyards, manicured front yard, and greenspace behind the residential properties. The test pit survey was conducted within 1 metre of the building structures or until test pits showed evidence of recent ground disturbance. The field assessment concluded that the lands were free and clear of archaeological resources and that no further archaeological assessment was recommended.

Staff received a copy of the acknowledgement/acceptance letter from the Ministry of Citizenship and Multiculturalism (dated October 16, 2023).

Recognizing that no archaeological survey, regardless of its intensity, can entirely negate the possibility of deeply buried archaeological materials, Regional staff recommend the inclusion of the following standard archaeological clauses in the development agreement relating to deeply buried archaeological materials that may be encountered during grading and construction activities:

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 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.

Regional staff advise that any future development outside of the study area will require a separate Stage 1-2 archaeological assessment.

Natural Environment System

As previously noted, a pre-consultation meeting for the proposal was held on March 17, 2022 prior to the approval of the NOP by the Minister of Municipal Affairs and Housing on November 4, 2022. Policy 3.1.30.3.1 of the NOP states that, where a formal pre-consultation meeting has been completed within one (1) year of the approval of the NOP, and environmental requirements have been established through a signed pre-consultation agreement that has not expired, required environmental studies may be evaluated in accordance with the Regional policies that existed at the time the pre-consultation meeting was completed (provided the application is submitted within two years of the approval of the NOP). Accordingly, the environmental policies of the previous *Regional Official Plan, 2014* ("ROP") apply to the proposal.

Under the ROP, the subject lands are impacted by the Region's Core Natural Heritage System ("CNHS"), consisting of Significant Woodland, Significant Valleyland and a watercourse associated with Coyle Creek. As such, consistent with ROP policy 7.B.1.11, an Environmental Impact Study ("EIS") was requested in support of site alteration and/or development proposed adjacent to CNHS features to demonstrate that there will be no significant negative impact on the features or their ecological/hydrological function.

Regional staff reviewed the *Environmental Impact Study*, prepared by Terrastory Ecological Consulting Inc. (dated November 29, 2023), which confirms the presence of Significant Woodland, Significant Valleyland and the tributary of Coyle Creek. In addition, through the completion of ecological studies, the EIS identifies that the wooded valleyland contains Significant Wildlife Habitat associated with a Provincially Rare tree species (Pignut Hickory), Special Concern bird species (Eastern Wood-pewee) and significant Deer Wintering Area. Further, an Eastern Flowering Dogwood (endangered tree species) was identified within the manicured amenity space in front of the existing residence, while candidate Endangered Bat habitat is associated with the wooded valleyland.

The subject lands are currently developed with existing buildings and structures that extend into the valleyland/woodland. The EIS indicates that through this application, three of the existing residential buildings will be demolished, as well as the existing septic system for the

westernmost residence on the retained parcel. All new development (including lot lines) is proposed outside of the approved valleyland top of bank and Significant Woodland dripline. The Eastern Flowering Dogwood is proposed to be protected during demolition of the existing residence with tree protection fencing. Implementation of a Woodland Enhancement Plan is recommended in the EIS to enhance the ecological functions of the woodland/valleyland beyond existing conditions (i.e., achieve a net ecological benefit). A component of the Woodland Enhancement Plan includes restoring the open meadow area that occurs within the valleyland.

Staff is satisfied with the characterization of the subject lands. Provided the recommendations and mitigation strategy outlined in the EIS are implemented, the Region is satisfied that the ROP's policy test of 'no significant negative impact' to the CNHS has been achieved.

That said, the CNHS feature that has been characterized as high-functioning and the 0 metre setback is not sufficient to meet the 'no negative impact' test of the PPS. As such, the Region recommends the buffer width adjacent to the woodland/valleyland be maximized to extent possible to ensure no negative impacts to the adjacent woodland and valleyland. Staff, therefore, recommend that an updated Consent sketch be provided to the Region and Town for review that is consistent with and satisfactorily addresses the PPS test. Should the proposed lot fabric be deemed appropriate by the Committee, recommended conditions of approval relating to each proposed new lot are provided in the attached Appendix I to ensure EIS recommendations and mitigation measures are implemented.

Municipal Servicing – Proposed Lots (Parts 1 and 2)

The proposed two new lots are within the urban area; therefore, it is assumed they will be serviced by municipal servicing. The extension of the low pressure system will be under the jurisdiction and approval by the Town of Pelham. If there are any crossings of the Regional watermain detailed drawings are to be provided to the Region for review and approval prior to approval by the Town.

The only watermain available is a Regional hybrid watermain. The Region will require that detailed engineering plans be provided for the proposed water servicing for the two new lots. A Regional connection permit will be required for connections to the watermain. To obtain the connection permit a letter from the Town, detailed engineering drawings and a fee of \$1,250 will need to be provided to the Niagara Region (to the attention of Susan Dunsmore, P. Eng. Manager of Development Engineering at 905-980-6000 ext. 3661). Please be advised that connection permits are only valid for a period of one year.

Private Servicing – Retained Lot (Part 4)

Regional Private Sewage System staff conducted an on-site inspection on December 21, 2023. The property currently contains three dwellings that are privately serviced by sewage systems to the north. The existing septic tanks are located north of the dwellings and are to be decommissioned prior to the connection to municipal sewers or demolition. Staff advise that a tank decommissioning application issued by the Niagara Region will be required prior to demolition of the existing dwellings.

Staff received additional information indicating that the retained parcel has a replacement sewage system area. A percolation test was completed on-site which concluded an inground sewage system could be installed on the property in the future. No defects were observed with the system at the time of inspection; however, this system is considered legal non-conforming

as it contains a single chamber tank, and the bed is located in a steep slope. Any future changes to the dwelling which increase sewage flows would require a new sewage system in the replacement area to be installed. Staff note that all trees and driveway surfaces will need to be removed to ensure that the minimum building code setback area is achieved as per the Ontario Building Code (O. Reg. 332/12). The setbacks include 1.5 m from the septic tank to a structure and 5 m from the septic bed to a structure (driveway).

Therefore, Regional staff has no objection to the applications from a private servicing perspective, provided the two existing septic tanks are properly decommissioned and tank decommissioning applications are submitted to the Region.

Waste Collection

- Blue/grey –no limit (weekly)
- Green – no limit (weekly)
- Waste – 2 bag/can limit per lot (bi-weekly)
- **Curbside collection only**

Circular Materials Ontario is responsible for the delivery of residential Blue / Grey Box recycling collection services currently administered by Niagara Region. The most up to date information can be found using the following link: <https://www.circularmaterials.ca/resident-communities/niagara-region/>

Regional Bicycle Network

The subject property has frontage on Canboro Road, which is designated as part of the Regional Niagara Bicycling Network. If the bicycle routes are currently not established and identified with signage, it is the intent of the Region to make provisions for doing so when an appropriate opportunity arises. This may involve additional pavement width, elimination of on-street parking, etc.

Conclusion

Regional Growth Management and Planning Division staff has determined that the applications are consistent with the *Provincial Policy Statement* and in conformity with Provincial and Regional plans. As such, staff offer no objection to the applications, provided the two existing septic tanks are properly decommissioned and tank decommissioning applications are submitted to the Region.

The required connection permits for connection to the Regional watermain must be applied for, including the submission of detailed plan and profile drawings.

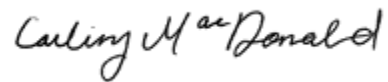
Preliminary conditions of approval are provided in the attached Appendix I for information with respect to implementation of the Environmental Impact Study recommendations and mitigation measures and archaeological advisory clauses.

Please contact the undersigned at Carling.MacDonald@niagararegion.ca or Pat Busnello at Pat.Busnello@niagararegion.ca should you have any questions related to the above comments.

Please send the Notice of Committee's Decision on these Applications when available.

March 19, 2024

Best Regards,

A handwritten signature in black ink that reads "Carling MacDonald". The signature is written in a cursive, flowing style.

Carling MacDonald

Development Planner, Niagara Region

cc. Pat Busnello, MCIP, RPP, Manager of Development Planning, Niagara Region
Susan Dunsmore, P.Eng., Manager of Development Engineering, Niagara Region
Caitlin Goodale, Private Sewage System Inspector, Niagara Region
Adam Boudens, MSc, Senior Environmental Planner, Niagara Region

Appendix I

Preliminary Conditions of Approval

Consent File: B4-2024P - Part 1

That the landowner enters a Development Agreement with the Town of Pelham for Part 1, to be registered on title, which requires that the owner implement the recommendations of the Environmental Impact Study (prepared by Terrastory Ecological Consulting Inc., dated November 29, 2023), including but not limited to:

- a) That a Tree Preservation Plan (TPP) be prepared, to the satisfaction of Niagara Region, that indicates any trees that need to be removed to allow for the development of Part 1. The TPP should be prepared in accordance with the Region's Woodland Conservation By-law (By-law 20-79).
- b) That the development agreement contain wording wherein the owner agrees to implement the approved Tree Preservation Plan, prior to construction.
- c) Any necessary tree removal and demolition of the existing buildings or structures will take place between October 1 and April 30 to avoid the active season for bats. Should minor tree removal be required between May 1 and September 30, a qualified professional will complete an exit survey of suitable maternal roosting sites identified for removal a maximum of 24 hours before removal. The exit survey must make use of a bat detector and will occur for no less than the time period between sunset and 60 minutes after sunset. If an Endangered bat is identified during the survey, Ministry of the Environment, Conservation and Parks (MECP) should be contacted to obtain further direction prior to removal of the tree.
- d) If construction activities occur during the active bat season (i.e., May 1 and September 30), work will be restricted to daylight hours only and the use of artificial lighting will be avoided.
- e) Any lighting incorporated into the final building designs should be directed downward (i.e., towards the ground) and/or away from the adjacent woodlot (i.e., directed eastward) to the extent practicable.
- f) The removal of trees will be restricted to areas in direct conflict with the footprints of the proposed development features (e.g., residence, septic system, driveway, etc.) and grading, along with any hazardous trees in the immediate vicinity that pose an unacceptable risk to human life or property.
- g) All necessary vegetation removal will be completed outside the primary bird nesting period (i.e., to be completed between September 1 and March 31). Should minor vegetation removal be proposed during the bird nesting period, a bird nesting survey will be undertaken to confirm the presence or absence of nesting birds or bird nests within or adjacent to the areas subject to vegetation clearance. The survey is to take place within 48 hours of vegetation removal.
- h) Incorporation of Bird-Friendly Guidelines into the residence design such as those published in City of Toronto's "Best Practices for Bird-Friendly Glass" and "Best Practices for Effective Lighting" should be considered at detailed design.

- i) Any Landscape Plans prepared as part of the development approval should incorporate species native to the local landscape.
- j) That a light duty silt fence be installed at the limit of any excavation and grading to delineate the work area and help minimize impacts (e.g., sedimentation and accidental encroachment) to adjacent vegetation and that the silt fence be properly embedded (as per Ontario Provincial Standard Specification 805) into the ground to reduce any offsite movement of silt. The silt fence used should be one that does not include a mesh component, to avoid risk of entanglement of wildlife.
- k) That the contractor has a spill kit on site to minimize potential contamination from accidental spills. The equipment should be inspected for leaks and refueling be completed in accordance with best management practices and at least 30 m away from the woodland.
- l) That continuous, permanent fencing be installed along the rear property line, adjacent to the Significant Woodland, to delineate property boundaries to limit potential encroachment into the woodland.

Consent File: B5-2024P - Part 2

That the landowner enters a Development Agreement with the Town of Pelham for Part 2, to be registered on title, which requires that the owner implement the recommendations of the Environmental Impact Study (prepared by Terrastory Ecological Consulting Inc., dated November 29, 2023), including but not limited to:

- a) That a Tree Preservation Plan (TPP) be prepared, to the satisfaction of Niagara Region, that indicates any trees that need to be removed to allow for the development of Part 2. The TPP should be prepared in accordance with the Region's Woodland Conservation By-law (By-law 20-79).
- b) That the development agreement contain wording wherein the owner agrees to implement the approved Tree Preservation Plan, prior to construction.
- c) Any necessary tree removal and demolition of the existing buildings or structures will take place between October 1 and April 30 to avoid the active season for bats. Should minor tree removal be required between May 1 and September 30, a qualified professional will complete an exit survey of suitable maternal roosting sites identified for removal a maximum of 24 hours before removal. The exit survey must make use of a bat detector and will occur for no less than the time period between sunset and 60 minutes after sunset. If an Endangered bat is identified during the survey, Ministry of the Environment, Conservation and Parks (MECP) should be contacted to obtain further direction prior to removal of the tree.
- d) If construction activities occur during the active bat season (i.e., May 1 and September 30), work will be restricted to daylight hours only and the use of artificial lighting will be avoided.
- e) Any lighting incorporated into the final building designs should be directed downward (i.e., towards the ground) and/or away from the adjacent woodlot (i.e., directed eastward) to the extent practicable.

- f) The removal of trees will be restricted to areas in direct conflict with the footprints of the proposed development features (e.g., residence, septic system, driveway, etc.) and grading, along with any hazardous trees in the immediate vicinity that pose an unacceptable risk to human life or property.
- g) All necessary vegetation removal will be completed outside the primary bird nesting period (i.e., to be completed between September 1 and March 31). Should minor vegetation removal be proposed during the bird nesting period, a bird nesting survey will be undertaken to confirm the presence or absence of nesting birds or bird nests within or adjacent to the areas subject to vegetation clearance. The survey is to take place within 48 hours of vegetation removal.
- h) Incorporation of Bird-Friendly Guidelines into the residence design such as those published in City of Toronto's "Best Practices for Bird-Friendly Glass" and "Best Practices for Effective Lighting" should be considered at detailed design.
- i) Any Landscape Plans prepared as part of the development approval should incorporate species native to the local landscape.
- j) That a light duty silt fence be installed at the limit of any excavation and grading to delineate the work area and help minimize impacts (e.g., sedimentation and accidental encroachment) to adjacent vegetation and that the silt fence be properly embedded (as per Ontario Provincial Standard Specification 805) into the ground to reduce any offsite movement of silt. The silt fence used should be one that does not include a mesh component, to avoid risk of entanglement of wildlife.
- k) That the contractor has a spill kit on site to minimize potential contamination from accidental spills. The equipment should be inspected for leaks and refueling be completed in accordance with best management practices and at least 30 m away from the woodland.
- l) That continuous, permanent fencing be installed along the rear property line, adjacent to the Significant Woodland, to delineate property boundaries to limit potential encroachment into the woodland.

Consent Files: B4-2024P & B5-2024P - Part 4

That the landowner enters a Development Agreement with the Town of Pelham for Part 4, to be registered on title, which requires that the owner implement the recommendations of the Environmental Impact Study (prepared by Terrastory Ecological Consulting Inc., dated November 29, 2023), including but not limited to:

- a) That a Woodland Enhancement Plan be prepared, to the satisfaction of Niagara Region, for the area indicated on Figure 3 of the EIS. The Plan shall consist of a diversity of native tree and shrub plantings and incorporate wildlife habitat enhancement elements. Plantings of Pignut Hickory shall be incorporated into the Woodland Enhancement Plan
- b) That a Tree Preservation Plan (TPP) be prepared, to the satisfaction of Niagara Region, that indicates any trees that need to be removed to allow for the

development of Part 4. The TPP should be prepared in accordance with the Region's Woodland Conservation By-law (By-law 20-79).

- c) That the development agreement contain wording wherein the owner agrees to implement the approved Tree Preservation Plan and Woodland Enhancement Plan, prior to construction.
- d) That tree protection fencing be installed surrounding the Eastern Flowering Dogwood at the time of construction to avoid incidental mechanical damage to the trunk, branches, or roots.
- e) Any necessary tree removal and demolition of the existing buildings or structure will take place between October 1 and April 30 to avoid the active season for bats. Should minor tree removal be required between May 1 and September 30, a qualified professional will complete an exit survey of suitable maternal roosting sites identified for removal a maximum of 24 hours before removal. The exit survey must make use of a bat detector and will occur for no less than the time period between sunset and 60 minutes after sunset. If an Endangered bat is identified during the survey, Ministry of the Environment, Conservation and Parks (MECP) should be contacted to obtain further direction prior to removal of the tree.
- f) If construction activities occur during the active bat season (i.e., May 1 and September 30), work will be restricted to daylight hours only and the use of artificial lighting will be avoided.
- g) The removal of trees will be restricted to areas in direct conflict with the footprints of the proposed development features (e.g., residence, septic system, driveway, etc.) and grading, along with any hazardous trees in the immediate vicinity that pose an unacceptable risk to human life or property.
- h) All necessary vegetation removal will be completed outside the primary bird nesting period (i.e., to be completed between September 1 and March 31). Should minor vegetation removal be proposed during the bird nesting period, a bird nesting survey will be undertaken to confirm the presence or absence of nesting birds or bird nests within or adjacent to the areas subject to vegetation clearance. The survey is to take place within 48 hours of vegetation removal.
- i) Any Landscape Plans prepared as part of the development approval should incorporate species native to the local landscape.
- j) That a light duty silt fence be installed at the limit of any excavation and grading to delineate the work area and help minimize impacts (e.g., sedimentation and accidental encroachment) to adjacent vegetation and that the silt fence be properly embedded (as per Ontario Provincial Standard Specification 805) into the ground to reduce any offsite movement of silt. The silt fence used should be one that does not include a mesh component, to avoid risk of entanglement of wildlife.
- k) That the contractor has a spill kit on site to minimize potential contamination from accidental spills. The equipment should be inspected for leaks and refueling be completed in accordance with best management practices and at least 30 m away from the woodland.

Consent Files: B4-2024P & B5-2024P

That the following archaeological advisory clause be inserted in the Development Agreement between the landowner and Town of Pelham:

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 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.

Sarah Leach

Subject: RE: NPCA comments regarding 201 Canboro Road Applications for April 02, 2024

From: Meghan Birbeck
Sent: Monday, March 4, 2024 4:30 PM
To: Andrew Edwards <AEwards@pelham.ca>
Cc: Shannon Larocque <SLarocque@pelham.ca>
Subject: NPCA comments regarding 201 Canboro Road Applications for April 02, 2024

Good afternoon Andrew,

Thank you so much for circulating the revised Plans (Severance Sketch dated February 16, 2024 by Kirkup Mascoe Ure Surveying and Severance Concept dated February 23, 2024 by Upper Canda Consultants) and Report (Supplemental Slope Stability Considerations dated February 22, 2024 by Soil-Mat Engineers) for the consent application at 201 Canboro Rd.

Technical staff have had a review of the reviewed material and are satisfied that NPCA comments have been addressed.

As such, the NPCA can support the severance application.

Please note that any proposed development will require NPCA approval and possible work permits.

Best,
Meghan



Meghan Birbeck (MS)
Watershed Planner

Niagara Peninsula Conservation Authority (NPCA)
250 Thorold Road West, 3rd Floor | Welland, ON L3C 3W2

905.788.3135 Ext 278
www.npca.ca
mbirbeck@npca.ca



Community Planning and Development Department
Committee of Adjustment
Tuesday, April 02, 2024

Consent Application: B5-2024P

Municipal Address: 201 Canboro Road

Legal Description: Part Lot 4, Concession 8 as in RO685205 (Part 2 on Sketch)

Roll number: 2732 020 010 10500

Location of Lands and Purpose of Application:

The subject parcel, shown as Part 2 on the attached sketch, has a frontage of 13.66m on the north side of Canboro Road, lying south of Highway 20 being Part Lot 4, Concession 8 in the Town of Pelham.

Application is made for consent to partial discharge of mortgage and consent to convey 348 square metres of land (Part 2), for future construction of a semi-detached dwelling. Part 3 is to be dedicated to the Town of Pelham for a road widening. Part 4 is to be retained for continued residential use.

The subject lands straddle the western boundary of the urban settlement area of Fonthill. The application proposes to sever the lands along the urban area boundary line and delineated boundary of the identified natural heritage features to create two new lots (Parts 1 & 2) for the construction of two semi-detached dwellings, for a total of four new residential dwelling units.

The lands currently contain three single detached dwellings and an existing detached garage. To facilitate the proposed development, the existing structures, save for the most westerly dwelling on Part 4 are proposed to be removed. In addition, a road widening of 3.0 metres (Part 3 on sketch) is proposed along the frontage of the remnant parcel, which is proposed to be transferred to the Town. Public Works staff have indicated they no longer require the road widening. As such, the retained parcel would constitute Parts 3 and 4 combined.

Part 2 is proposed to have a lot area of 348 square metres, with a frontage of 13.66 metres along Canboro Road. The applicant included a concept plan in addition to the severance sketch which shows the location of a proposed semi-detached dwelling on the lands. A minor variance is required to recognize a deficient rear yard setback.

Surrounding land uses include a woodland and intermittent tributary of Coyle Creek to the north, low density residential uses to the east and south, and agricultural uses to the west.

This application is being considered concurrently with Consent File B6-2024P, and minor variance applications A6-2024P and A7-2024P.

The applications were originally slated to be heard at the January 11, 2024 Committee of Adjustment hearing. At the January hearing the applicant requested the applications be deferred until such time as they were able to address comments received on the original consent applications.

The proposal was revised to shift the rear lot line closer to the street to maintain a larger separation from the physical top of slope. As a result, the proposed lots are smaller in lot area than originally proposed, as the location of the rear lot line has shifted.

Applicable Planning Policies:

Planning Act

Applications for consent shall have regard to provincial interests and the *Planning Act* land division criteria, contained under Section 51(24) of the *Planning Act*:

- a) The development's effect on provincial matters of interest;
 - See PPS and Growth Plan analysis in sections below.
- b) Whether the proposed subdivision is premature or in the public interest;
 - Please refer to discussion below.
- c) Whether the plan conforms to the Official Plan and adjacent plans of subdivisions, if any;
 - See Official Plan discussion below.
- d) The suitability of the land for such purposes;
 - The lands are located within the urban area and will provide for gentle intensification.
- f) The dimensions and shapes of the proposed lots;
 - The dimensions of the proposed lot are compliant with the zoning by-law.
- h) Conservation of natural resources and flood control;
 - An Environmental Impact Study was prepared and submitted with the application. Please refer to planning comments below.
- i) The adequacy of utilities and municipal services;
 - There is an existing regional 300 mm diameter watermain along Canboro Road, which is considered adequate for domestic water supply to the four (4) semi-detached dwellings. The proposed lots will connect to this watermain via a 25 mm lateral connection. Sanitary services will be provided by extending an existing 75 mm diameter HDPE sanitary forcemain approximately 21 m to the west, to allow connection of the four (4) semi-detached dwellings.

- j) The adequacy of school sites;
 - Available nearby. School Boards did not comment on application.

Planning staff are of the opinion the applicant for consent does not have regard for the *Planning Act*.

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.

Section 3 of the *Planning Act* requires that decisions affecting planning matters “shall be consistent with” policy statements issued under the Act. The PPS recognizes the diversity of Ontario, and that local context is important. Policies are outcome-oriented, and some policies provide flexibility provided that provincial interests are upheld. PPS policies represent minimum standards.

The PPS designates Parts 3 and 4 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 Parts 1 and 2 are located outside the Specialty Crop Area and are 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. Policy 1.1.3.2 states that land use patterns within settlement areas shall be based on a range of densities and mix of land uses that efficiently use land and resources, are appropriate for and efficiently use infrastructure and public service facilities, minimize negative impacts to air quality and climate change and promote energy efficiency, prepare for the impacts of a changing climate, support active transportation and are transit and freight supportive.

Policy 1.1.3.3 provides for the promotion of intensification and redevelopment accommodating a significant supply and range of housing options where it can be accommodated considering the building stock, availability of existing and planned infrastructure and public service facilities required to accommodate the needs of the development.

Infill development is an acceptable form of intensification so long as new development is compatible in nature, is compact, and avoids adverse impacts to provincial interest, public health, safety, and the quality of the human environment.

Significant natural features are referenced in section 2.1 of the 2020 Provincial Policy Statement (PPS), namely: Significant Wetlands; Significant Woodlands; Significant Valleyland; Significant Wildlife Habitat (SWH); Significant Areas of Natural and Scientific Interest (ANSIs); Habitat of Endangered and Threatened Species; and Fish

Habitat. Per the Environmental Impact Study submitted with the application, the following were confirmed on site: significant woodlands, significant valleylands, significant wildlife habitat, and habitat of endangered and threatened species.

The PPS states that natural features and areas shall be protected for the long term (Policy 2.1.1) and that their diversity and connectivity be maintained, restored or, where possible, improved (Policy 2.1.2). The EIS submitted with the application states that no negative impacts to the Significant Woodland, Significant Valleyland, and candidate/confirmed Significant Wildlife Habitat are anticipated given implementation of the proposed development plan provided that the recommended mitigation measures of the EIS are implemented in full.

Planning Staff are of the opinion the proposed consent is consistent with the Provincial Policy Statement subject to the findings and implementation of the recommendations of the EIS.

Greenbelt Plan (2017)

The Greenbelt Plan, 2017 ("Greenbelt Plan") designates a portion of the subject lands as Protected Countryside. According to the Provincial Policy Statement, 2020 ("PPS") and Niagara Official Plan, 2022 ("NOP"), Parts 1 and 2 are located outside the Specialty Crop Area and are designated as a Settlement Area under the PPS and NOP, and as such, the policies of the Greenbelt Plan do not apply to the subject lands.

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.

Within the Natural Heritage System for the Growth Plan, new development or site alternative will demonstrate that there are no negative impacts on key natural heritage features.

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.

Policy 2.2.2.1(a) requires a minimum of 50 percent of all new residential development to occur within the delineated built-up area.

Policy 2.2.2.3(b) encourages intensification generally throughout the built-up area and investment in services that will support intensification.

The additional residential lot will help the Town to meet or exceed its *delineated built boundary* intensification targets. The proposed lot will help contribute towards the municipal property tax base which helps financially support the maintenance of linear infrastructure and *public service facilities*. The lands will be required to connect to municipal services as a condition of consent approval.

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

Niagara Region Official Plan (2022)

The Region of Niagara adopted a new Official Plan on June 23, 2022. Approval was granted by the Province on November 7, 2022. The new Region of Niagara Official Plan ("NOP") provides the policy guidance for future development across the Region. The easterly portion of the Subject Lands are located within a Settlement Area under the PPS and are designated Delineated Built-Up Area in the NOP. The northerly portion of lands are designated Specialty Crop Area with a Natural Environment System Overlay containing Significant Woodlands, Other Wetlands and non-Provincially Significant Wetlands.

A pre-consultation meeting for the proposal was held on March 17, 2022, prior to the approval of the NOP by the Minister of Municipal Affairs and Housing on November 4, 2022. Policy 3.1.30.3.1 of the NOP states that, where a formal pre-consultation meeting has been completed within one (1) year of the approval of the NOP, and environmental requirements have been established through a signed pre-consultation agreement that has not expired, required environmental studies may be evaluated in accordance with the Regional policies that existed at the time the pre-consultation meeting was completed (provided the application is submitted within two years of the approval of the NOP). Accordingly, the environmental policies of the previous Regional Official Plan, 2014 ("ROP") apply to the proposal.

The eastern portion are located within a Settlement Area under the Provincial Policy Statement (PPS), designated Delineated Built-Up Area in A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan) and designated Urban Area (Built-Up Area) in the Regional Official Plan (ROP). Under the ROP, a full range of residential, commercial, and industrial uses are permitted generally within the Urban Area designation, subject to the availability of adequate municipal services and infrastructure, local official plan policies, and other ROP policies relative to land use compatibility and environmental conservation.

The western portion are designated as being within a Prime Agricultural Area, and more specifically within a Specialty Crop Area, under the Provincial Policy Statement (PPS), within the Protected Countryside, and more specifically within the Specialty Crop Area – Niagara Peninsula Tender Fruit and Grape Area, under the Greenbelt Plan, and within Prime Agricultural Lands under the Regional Official Plan (ROP). The ROP also identifies this portion of the subject property as being located outside the Urban Area Boundary for the Town of Pelham.

Parts 3 and 4 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 use of the parcel is not proposed to change as the lands are intended to be retained for their existing residential use.

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 lands have split land use designations. The easterly portion of the lands are designated Urban Living Area/Built Boundary, while the northerly and westerly portions of the lands are designated Environmental Protection Three (EP3), Specialty Agricultural, and having Greenbelt Natural Heritage Overlay.

A "Wooded Area" is shown through the rear of the Subject Property per Schedule B (Environmental Features) while a "Valleyland" is shown per Schedule B1 (Subwatersheds and Subwatershed Features).

Policy B3.4.4.1 states: new development and/or site alteration is not anticipated within the EP3 designation, and any proposal for development or site alteration within 120 m of any feature within the EP3 designation will be supported by an EIS, the primary purpose of which is to identify a self-sustaining vegetation protection zone. The EIS is to be prepared to the satisfaction of the Region in consultation with the Town and NPCA. The vegetation protection zone shall be determined at the time of a planning approval.

The lands are identified as containing Valleyland, per Schedule B1.

Policy B3.7.3.1 provides that no new development, site alteration or lot creation shall be permitted in areas located within the Valleyland designation. All development shall generally be directed to areas outside of the Valleyland designation. Lands within the Valleyland designation are encouraged to be maintained in a natural state with no disturbances of grades or existing vegetation. Where permitted, all new development, site alteration and lot creation shall ensure that overland drainage is directed away from valley slopes and that proper construction measures are taken to protect valley vegetation in accordance with NPCA requirements.

A slope stability assessment was submitted with the original application. Through a review of the application, the NPCA noted that the physical top of slope referenced in the report appeared not to be the top of slope identified in the concept plan. A site visit was conducted on January 24, 2024, to cross reference the drawings with the on the ground site conditions. Following the site visit the NPCA provided further comments requiring revisions to the slope stability assessment.

The natural heritage policy framework the application must meet is the test of “no negative impact” to the Significant Woodland, Significant Valleyland, and Significant Wildlife Habitat identified on site. An Environmental Impact Study was submitted with the application which concluded, upon the implementation of its recommendations, there would be no negative impact on the natural heritage features identified on site. Accordingly, it will be a recommended condition of approval that the owner enter into a development agreement with the Town to ensure that all recommendations of the EIS are implemented.

The concept plan shows a setback of 3.46 metres from the dripline to the rear lot line. The proposed semi-detached dwellings maintain a setback of 4.5 metres from the proposed lot line.

Policy B1.1.3 states that in considering residential intensification proposals, the following criteria are applicable:

- a) Schedules A1 and A2 to this Plan identify a number of areas that may be good candidates for residential intensification. This does not preclude consideration for other sites in the Urban Living Area designation provided these sites abut arterial or collector roads or are located on a local road on a site that is no further than 100 metres from an intersection with an arterial or collector road;
 - ✓ N/A. The site is located on Canboro Road which is identified as an Arterial Road.
- b) Intensification and redevelopment proposals are encouraged to achieve a unit density and housing type that is in keeping with the character of the density of the neighbourhood where it is proposed. Within the identified intensification areas identified on Schedules A1 and A2 the implementing Zoning By-law may establish minimum and maximum densities of between 10 and 25 units per hectare;
 - ✓ The subject lands are not within an identified intensification area. However, they are located on an Arterial Road which is an appropriate location for gentle intensification.
- c) Residential intensification and redevelopment proposals located on lands which abut local roads shall maintain the unit density and unit type of the surrounding neighbourhood, but may through a Zoning By-law Amendment, increase the unit density by up to 25% of the existing gross density of lands located within 300 metres of the site, provided the resultant development will be characterized by quality design and landscaping, suitable building setbacks, and further that parking areas and traffic movements will not negatively impact the surrounding neighbourhood from the perspectives of safety or neighbourhood character;
 - ✓ N/A. The lands are located on an Arterial Road.
- d) Notwithstanding items (b) and (c), the creation of new freehold or vacant condominium infill lots through the consent process, for ground-oriented detached dwellings, may be permitted provided the proposed lot and unit type is similar to and compatible with the established character of the street or neighbourhood where it is proposed. The Zoning By-law shall establish

minimum lot area and frontages and minimum and/or maximum densities which are considered appropriate within the Urban Living Area designation;

- ✓ The scale of the proposed development is similar to and compatible with the established character along Canboro Road.
- e) The creation of accessory apartments and in-law suites within residential neighbourhoods is considered to be an appropriate form of residential intensification. The establishment of accessory apartments shall occur in accordance with Policy B1.1.4 and Council may reduce the application fee for such amendments under the Town's Tariff of Fees By-law;
 - ✓ Second dwelling units are permitted in semi-detached dwellings and accessory buildings subject to meeting the zoning by-law requirements for such uses. The proposed application is for a new semi-detached dwelling.
- f) The provision of affordable housing in intensification areas will be encouraged; and,
 - ✓ The new lot will allow for an additional residential dwelling unit. The Town does have policies that permit second dwelling units in semi-detached dwellings and accessory buildings that if employed would help foster housing affordability.
- g) The Town will consider innovations for responsive processing of applications and amendments in the future including tools such as Conditional Zoning Amendments implementing a Development Permit system and the streamlining of processing concurrent development applications.
 - ✓ N/A

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;
 - ✓ Canboro Road is a public road that is maintained year-round.
- b) Will not cause a traffic hazard as a result of its location on a curve or a hill;
 - ✓ No issues are anticipated given the existing sightlines along Canboro Road.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
 - ✓ Yes, the severed lands meet the provisions of the Zoning By-law following approval of the concurrent minor variance application to address the deficient rear yard setback.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
 - ✓ Yes. Services exist and are available to service the development. The servicing strategy is outlined in the Functional Servicing Report.
- e) Will not have a negative impact on the drainage patterns in the area;
 - ✓ A Lot Grading & Drainage Plan was prepared and submitted with the application.
- f) Will not affect the developability of the remainder of the lands, if they are designated for development by this Plan;

- ✓ A concurrent application for consent is also being considered for the remainder of the portion of the lands in the Urban Area boundary.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
 - ✓ An Environmental Impact Study was submitted with the application which concluded, upon the implementation of its recommendations, there would be no negative impact on the natural heritage features identified on site. Accordingly, it will be a recommended condition of approval that the owner enter into a development agreement with the Town to ensure that all recommendations of the EIS are implemented.
- h) Conforms with Regional lot creation policy as articulated in the Regional Policy Plan; and,
 - ✓ The consent conforms with the Regional Official Plan. Please refer to Regional comments below.
- i) Complies with the appropriate provincial Minimum Distance Separation Formulae, where applicable.
 - ✓ N/A.

The Town's Cultural Heritage Master Plan identifies the subject lands as having composite potential for deeply buried archaeological resources. As such, the applicant submitted a stage 1-2 Archaeological Assessment which found no archaeological resources in the study area. No further archaeological assessment of the study area was recommended. The applicant provided a clearance letter (s) from the Ministry of Citizenship and Multiculturalism.

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

The easterly portion of the subject lands within the settlement area are currently zoned Residential Two (R2) Zone and Environmental Protection One (EP1) Zone. The westerly portion of the site are zoned Environmental Protection One (EP1), Environmental Protection Three (EP3), and having Greenbelt Natural Heritage Overlay.

A semi-detached dwelling is a permitted use in the R2 zone. Section 1.5(b)(ii) of the Zoning By-law states: The Environmental Protection One (EP1), Environmental Protection Two (EP2), Environmental Protection Three (EP3) and Open Space (OS) Zones boundary generally reflects the natural features and the location of the boundary may be determined by lot line, road, rail line, or where the zone does not abut any of the above, by the scale of the map or as confirmed through an Environmental Impact Study.

Concurrent minor variance applications have been submitted with the revised proposal which are intended to address the deficient rear yard setbacks for the two new lots.

Submitted Materials:

An Environmental Impact Study prepared by Terrastory Environmental Consulting Inc. was submitted with the application. The study provides a description of the proposed development, identifies natural features with ecological and policy significance, and recommendations to avoid or minimize impacts. The following natural features were identified on site:

- A mature Carolinian deciduous forest identified as a Significant Woodland, and overlapping a Significant Valleyland;
- Significant woodland habitat for a provincially rare tree species and special concern bird species;
- An intermittent watercourse; and,
- An eastern flowering dogwood (endangered tree species).

A set of recommendations and mitigation measures was presented to achieve “no negative impact” and address applicable municipal, provincial, and federal policies. These included the preparation of a “Woodland Enhancement Plan” incorporating a diversity of native tree and shrub plantings (including Pignut Hickory), timing restriction on vegetation removal to protect nesting birds and roosting bats, and addressing Endangered Species Act requirements as they pertain to Eastern Flowering Dogwood.

Agency and Public Comments:

On March 6, 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
 - A Building permit is required for proposed semi-detached dwelling on Part 2.
 - A Demolition permit is required for any structures being removed.
- Public Works Department
 - Please be advised that no sideyard walkways that impede sideyard swales shall be permitted
 - Please note that the Town does not allow any service connections for Part 4 as it is not within the urban boundary.
 - The 2 units in the proposed Part 1 lot are to be individually serviced with its own sanitary and water connections if permitted. This work is to be done by the owner, at the owner’s expense, and will require a Temporary Works Permit. Should these services cross property lines, Public Works will not support the consent to sever. These works are to be completed prior to consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete.
 - Site Servicing Plan is required for this application.
 - Town of Pelham Public Works Staff require that the applicant submit an overall lot grading and drainage plan to demonstrate that the

drainage does not negatively impact nor rely on neighboring properties.

- That the applicant confirm that no existing utilities currently cross the proposed new property line. Should any services cross this new property line, the applicant will be responsible for costs associated with their relocation and/or removal.
 - A Construction of new or modification of existing driveways requires a Driveway Entrance Permit. This permit is obtained through the Public Works Department. All associated costs with this permit are the responsibility of the owner.
- Niagara Region
 - Staff acknowledge that the applications for Consent are confined to the Settlement Area/Delineated Built-Up Area, where population growth will be accommodated primarily through intensification, and that no new lots or development are proposed in the Specialty Crop Area.
 - Regional staff recommend the inclusion of the standard archaeological clauses in the development agreement relating to deeply buried archaeological materials that may be encountered during grading and construction activities. Regional staff advise that any future development outside of the study area will require a separate Stage 1-2 archaeological assessment.
 - Staff is satisfied with the natural heritage and environmental system characterization of the subject lands and if the recommendations and mitigation strategy outlined in the EIS are implemented, the Region is satisfied that the ROP's policy test of 'no significant negative impact' to the CNHS has been achieved. However, the CNHS feature that has been characterized as high-functioning and the 0 metre setback is not sufficient to meet the 'no negative impact' test of the PPS. As such, the Region recommends the buffer width adjacent to the woodland/valleyland be maximized to extent possible to ensure no negative impacts to the adjacent woodland and valleyland. Staff, therefore, recommend that an updated Consent sketch be provided to the Region and Town for review that is consistent with and satisfactorily addresses the PPS test. Should the proposed lot fabric be deemed appropriate by the Committee, recommended conditions of approval relating to each proposed new lot are provided to ensure EIS recommendations and mitigation measures are implemented.
 - The only watermain available is a Regional hybrid watermain. The Region will require that detailed engineering plans be provided for the proposed water servicing for the two new lots. A Regional connection permit will be required for connections to the watermain. To obtain the connection permit a letter from the Town, detailed engineering drawings and a fee are required to be submitted to the Region. The applicant is responsible for the fees and the preparation of the detailed engineering drawings.

- Regional Private Sewage System staff conducted an on-site inspection on December 21, 2023. The property currently contains three dwellings that are privately serviced by sewage systems to the north. The existing septic tanks are located north of the dwellings and are to be decommissioned prior to the connection to municipal sewers or demolition. Staff advise that a tank decommissioning application issued by the Niagara Region will be required prior to demolition of the existing dwellings. Staff received additional information indicating that the retained parcel has a replacement sewage system area. A percolation test was completed on-site which concluded an inground sewage system could be installed on the property in the future. No defects were observed with the system at the time of inspection; however, this system is considered legal non-conforming as it contains a single chamber tank, and the bed is located in a steep slope. Any future changes to the dwelling on the retained parcel which increase sewage flows would require a new sewage system in the replacement area to be installed. Staff note that all trees and driveway surfaces will need to be removed to ensure that the minimum building code setback area is achieved as per the Ontario Building Code (O. Reg. 332/12). The setbacks include 1.5 m from the septic tank to a structure and 5m from the septic bed to a structure (driveway). Regional staff has no objection to the applications from a private servicing perspective, provided the two existing septic tanks are properly decommissioned and tank decommissioning applications are submitted to the Region.

- The subject property has frontage on Canboro Road, which is designated as part of the Regional Niagara Bicycling Network. If the bicycle routes are currently not established and identified with signage, it is the intent of the Region to make provisions for doing so when an appropriate opportunity arises. This may involve additional pavement width, elimination of on-street parking, etc.
- Niagara Peninsula Conservation Authority (NPCA)
 - Technical staff have had a review of the reviewed material and are satisfied that NPCA comments have been addressed.
 - As such, the NPCA can support the severance application.
 - Please note that any proposed development will require NPCA approval and possible work permits.

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

Planning Staff Comments:

A Pre-consultation Meeting was held on March 17, 2022 with staff from the Town, Niagara Region, and Niagara Peninsula Conservation Authority (NPCA) to confirm the overall submission requirements, which included a supporting EIS. A Terms of Reference (ToR) for the EIS was prepared and approved by the NPCA and Region.

Planning staff have reviewed all submitted materials, as well as reviewed all agency and public correspondence submitted to date and the policy context as it relates to this application.

As previously noted, a site visit was conducted on January 24, 2024, to cross reference the drawings with the on the ground site conditions. Following the site visit the NPCA provided further comments requiring revisions to the slope stability assessment. The concept plan was revised to address comments from NPCA staff following the site visit.

With the revised application, the applicant submitted a revised planning opinion letter, revised concept plan and severance sketch, the revised slope stability assessment, and supplementary slope stability assessment.

Notwithstanding the application contains lands with natural heritage features, the submitted Environmental Impact Study found no anticipated negative impacts to the Significant Woodland, Significant Valleyland, and candidate/confirmed Significant Wildlife Habitat given implementation of the proposed development plan provided that the recommended mitigation measures are implemented in full. A development agreement will be required to ensure the recommendation are implemented in full. The application, if approved, will result in the removal of an existing septic system within the valleyland, development will be further setback from the feature than the existing development, and the implementation of a Woodland Enhancement Plan that

will ensure the ecological functions of the woodland/valleyland will be enhanced beyond existing conditions.

Generally, the redevelopment of this property for a semi-detached dwelling is a gentle form of residential intensification within an existing neighbourhood which will have minimal impact on adjacent land uses. The proposed severance is not considering more development than permitted by the current Zoning By-law.

Public Works staff have indicated that the proposed road widening is no longer required. As such, the Town will not require the road widening be dedicated to the town. The severance sketch should be updated to remove the widening.

Planning Staff Recommendation:

Planning staff recommend that Consent Application file B5/2024P **be approved** subject to the following conditions:

THAT the applicant:

- Provide the Secretary-Treasurer with a registerable 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.
- Provide the final certification fee of \$436, payable to the Treasurer, Town of Pelham, submitted to the Secretary-Treasurer. All costs associated with fulfilling conditions of consent shall be borne by the applicant.
- That the applicant confirm that no existing utilities currently cross the proposed new property line. Should any services cross this new property line, the applicant will be responsible for costs associated with their relocation and/or removal.
- Town staff will require an overall lot grading and drainage plan to demonstrate that the drainage does not negatively impact nor rely on neighboring properties.
- Sign the Town of Pelham's standard "Memorandum of Understanding" explaining that development charges and cash-in-lieu of the dedication of land for park purposes are required prior to the issuance of a Building Permit.
- Enter into a Development Agreement with the Town for Part 2, to ensure that all recommendations of the Environmental Impact Study (dated November 29, 2023) are implemented to the satisfaction of the Director of Community Planning and Development, including but not limited to:
 - a) That a Tree Preservation Plan (TPP) be prepared, to the satisfaction of Niagara Region, that indicates any trees that need to be removed to allow for the development of Part 2. The TPP should be prepared in accordance with the Region's Woodland Conservation By-law (By-law 20-79).
 - b) That the development agreement contain wording wherein the owner agrees to implement the approved Tree Preservation Plan, prior to construction.

- c) Any necessary tree removal and demolition of the existing buildings or structures will take place between October 1 and April 30 to avoid the active season for bats. Should minor tree removal be required between May 1 and September 30, a qualified professional will complete an exit survey of suitable maternal roosting sites identified for removal a maximum of 24 hours before removal. The exit survey must make use of a bat detector and will occur for no less than the time period between sunset and 60 minutes after sunset. If an Endangered bat is identified during the survey, Ministry of the Environment, Conservation and Parks (MECP) should be contacted to obtain further direction prior to removal of the tree.
- d) If construction activities occur during the active bat season (i.e., May 1 and September 30), work will be restricted to daylight hours only and the use of artificial lighting will be avoided.
- e) Any lighting incorporated into the final building designs should be directed downward (i.e., towards the ground) and/or away from the adjacent woodlot (i.e., directed eastward) to the extent practicable.
- f) The removal of trees will be restricted to areas in direct conflict with the footprints of the proposed development features (e.g., residence, septic system, driveway, etc.) and grading, along with any hazardous trees in the immediate vicinity that pose an unacceptable risk to human life or property.
- g) All necessary vegetation removal will be completed outside the primary bird nesting period (i.e., to be completed between September 1 and March 31). Should minor vegetation removal be proposed during the bird nesting period, a bird nesting survey will be undertaken to confirm the presence or absence of nesting birds or bird nests within or adjacent to the areas subject to vegetation clearance. The survey is to take place within 48 hours of vegetation removal.
- h) Incorporation of Bird-Friendly Guidelines into the residence design such as those published in City of Toronto's "Best Practices for Bird-Friendly Glass" and "Best Practices for Effective Lighting" should be considered at detailed design.
- i) Any Landscape Plans prepared as part of the development approval should incorporate species native to the local landscape.
- j) That a light duty silt fence be installed at the limit of any excavation and grading to delineate the work area and help minimize impacts (e.g., sedimentation and accidental encroachment) to adjacent vegetation and that the silt fence be properly embedded (as per Ontario Provincial Standard Specification 805) into the ground to reduce any offsite movement of silt. The silt fence used should be one that does not include a mesh component, to avoid risk of entanglement of wildlife.
- k) That the contractor has a spill kit on site to minimize potential contamination from accidental spills. The equipment should be inspected for leaks and refueling be completed in accordance with best management practices and at least 30 m away from the woodland.

- l) That continuous, permanent fencing be installed along the rear property line, adjacent to the Significant Woodland, to delineate property boundaries to limit potential encroachment into the woodland.
- Enter into a Development Agreement with the Town for Part 4, to ensure that all recommendations of the Environmental Impact Study (dated November 29, 2023) are implemented to the satisfaction of the Director of Community Planning and Development, including but not limited to:
 - a) That a Woodland Enhancement Plan be prepared, to the satisfaction of Niagara Region, for the area indicated on Figure 3 of the EIS. The Plan shall consist of a diversity of native tree and shrub plantings and incorporate wildlife habitat enhancement elements. Plantings of Pignut Hickory shall be incorporated into the Woodland Enhancement Plan
 - b) That a Tree Preservation Plan (TPP) be prepared, to the satisfaction of Niagara Region, that indicates any trees that need to be removed to allow for the development of Part 4. The TPP should be prepared in accordance with the
 - Region's Woodland Conservation By-law (By-law 20-79).
 - c) That the development agreement contain wording wherein the owner agrees to implement the approved Tree Preservation Plan and Woodland Enhancement Plan, prior to construction.
 - d) That tree protection fencing be installed surrounding the Eastern Flowering Dogwood at the time of construction to avoid incidental mechanical damage to the trunk, branches, or roots.
 - e) Any necessary tree removal and demolition of the existing buildings or structure will take place between October 1 and April 30 to avoid the active season for bats. Should minor tree removal be required between May 1 and September 30, a qualified professional will complete an exit survey of suitable maternal roosting sites identified for removal a maximum of 24 hours before removal. The exit survey must make use of a bat detector and will occur for no less than the time period between sunset and 60 minutes after sunset. If an Endangered bat is identified during the survey, Ministry of the Environment, Conservation and Parks (MECP) should be contacted to obtain further direction prior to removal of the tree.
 - f) If construction activities occur during the active bat season (i.e., May 1 and September 30), work will be restricted to daylight hours only and the use of artificial lighting will be avoided.
 - g) The removal of trees will be restricted to areas in direct conflict with the footprints of the proposed development features (e.g., residence, septic system, driveway, etc.) and grading, along with any hazardous trees in the immediate vicinity that pose an unacceptable risk to human life or property.
 - h) All necessary vegetation removal will be completed outside the primary bird nesting period (i.e., to be completed between September 1 and March 31). Should minor vegetation removal be proposed during the bird nesting period, a bird nesting survey will be undertaken to confirm the presence or absence of nesting birds or bird nests within

or adjacent to the areas subject to vegetation clearance. The survey is to take place within 48 hours of vegetation removal.

- i) Any Landscape Plans prepared as part of the development approval should incorporate species native to the local landscape.
- j) That a light duty silt fence be installed at the limit of any excavation and grading to delineate the work area and help minimize impacts (e.g., sedimentation and accidental encroachment) to adjacent vegetation and that the silt fence be properly embedded (as per Ontario Provincial Standard Specification 805) into the ground to reduce any offsite movement of silt. The silt fence used should be one that does not include a mesh component, to avoid risk of entanglement of wildlife.
- k) That the contractor has a spill kit on site to minimize potential contamination from accidental spills. The equipment should be inspected for leaks and refueling be completed in accordance with best management practices and at least 30 m away from the woodland.
- That the following archaeological advisory clause be inserted in the Development Agreement between the landowner and Town of Pelham:
"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 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."

- That final approval of all necessary zoning approvals be obtained for Part 2, through the approval of minor variance application A7-2024P.
- The 2 units in the proposed Part 2 lot are to be individually serviced with its own sanitary and water connections if permitted. This work is to be done by the owner, at the owner's expense, and will require a Temporary Works Permit. Should these services cross property lines, Public Works will not support the consent to sever. These works are to be completed prior to consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete.
- Town staff will require a Site Servicing Plan, to the Satisfaction of the Director of Public Works.
- A Construction of new or modification of existing driveways requires a Driveway Entrance Permit. This permit is obtained through the Public Works

Department. All associated costs with this permit are the responsibility of the owner.

- Apply for and receive approval for NPCA work permits, if necessary.

Prepared and Submitted by:

Andrew Edwards, BES
Planner

Recommended by:

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

**Engineering Department
Committee of Adjustment Report**

For

**B5-2024P
201 Canboro Road Part 2**

March 20, 2024

Town staff have reviewed the following documentation for the purpose of **B5-2024P – 201 Canboro Road Part 2** consent application for:

Application is made for consent to partial discharge of mortgage and consent to convey 401 square metres of land (Part 2), for future construction of a semi-detached dwelling. Part 3 is to be dedicated to the Town of Pelham for a road widening. Part 4 is to be retained for continued residential use.

This application is being considered concurrently with Consent File B4-2024P.

Introduction:

The subject parcel, shown as Part 2 on the attached sketch, has a frontage of 13.66m on the north side of Canboro Road, lying south of Highway 20 being Part Lot 4, Concession 8 in the Town of Pelham.

The purpose and effect of the application is to create two (2) new parcels for future residential use. The applications propose to sever two (2) parcels from the remnant parcel, resulting in a total of three (3) parcels on lands known municipally as 201 Canboro Road in the Town of Pelham. Three (3) single detached dwellings are currently present on the lands along with a detached garage. The most westerly dwelling is proposed to remain while the rest of the structures are proposed to be removed in order to accommodate the future dwellings.

Analysis:**Functional Servicing Report**

FSR indicates that the 2 units in the proposed Part 2 lot are to be individually serviced with its own sanitary and water connections.

Water Services

The FSR submitted states that the existing regional watermain tap will require approval and permit from the region. The Town will also require a Temporary Works Permit to carry out this work should this be approved. These works are to be completed prior to consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete.

Sanitary Services

It is indicated in the FSR that the 75mm diameter Sanitary Forcemain is to be extended to the west. With the previous expansion of the services ended in front of Part 1, Part 2 does not currently front any sanitary services. A Clarification for the length of sanitary extension is required and shall be indicated in the servicing plan.

General Comments

Please note that the Town does not allow any service connections for Part 4 as it is not within the urban boundary.

Applicant should confirm that no existing utilities shall cross property line, relocation shall be the applicant's responsibility.

A Construction of new or modification of existing driveways requires a Driveway Entrance Permit. This permit is obtained through the Public Works Department. All associated costs with this permit are the responsibility of the owner.

No Parking will be permitted in the Town's Right-of-Way.

Public Works offer the following comment:

- Please be advised that no sideyard walkways that impede sideyard swales shall be permitted
- Please note that the Town does not allow any service connections for Part 4 as it is not within the urban boundary.

Public Works offer the following conditions:

- The 2 units in the proposed Part 2 lot are to be individually serviced with its own sanitary and water connections if permitted. This work is to be done by the owner, at the owner's expense, and will require a Temporary Works Permit. Should these services cross property lines, Public Works will not support the consent to sever. These works are to be completed prior to consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete.
- Site Servicing Plan is required for this application.
- Town of Pelham Public Works Staff require that the applicant submit an overall lot grading and drainage plan to demonstrate that the drainage does not negatively impact nor rely on neighboring properties.
- That the applicant confirm that no existing utilities currently cross the proposed new property line. Should any services cross this new property line, the applicant will be responsible for costs associated with their relocation and/or removal.

-
- A Construction of new or modification of existing driveways requires a Driveway Entrance Permit. This permit is obtained through the Public Works Department. All associated costs with this permit are the responsibility of the owner.

To: Sarah Leach

Cc: Andrew Edwards

From: Alex Foisey, Building Intake/Zoning Technician

Date: March 20th, 2024

Subject: Building Comments on Applications to the Committee of Adjustment for
201 Canboro Road – Part 2

File Number: B5-2024P

Comments:

Building Permit is required for proposed Semi-Detached Dwelling

Respectfully,
Alex Foisey

Growth Management and Planning Division

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

Via Email

March 19, 2024

Regional File: D.06.06.CS-23-0114, D.06.06.CS-23-0115

Sarah Leach
Deputy Clerk/Secretary-Treasurer
Town of Pelham
20 Pelham Town Square, P.O. Box 400
Fonthill, ON L0S 1E0

Dear Ms. Leach:

Re: Regional and Provincial Review Comments
Consent Applications
Town File: B4-2024P, B5-2024P, A6-2024P & A7-2024P
Owner: [REDACTED]
Agent/Applicant: [REDACTED]
201 Canboro Road
Town of Pelham

Regional Growth Management and Planning Division staff has reviewed the materials circulated with the two Consent applications for the lands located at 201 Canboro Road in the Town of Pelham ("subject lands").

The applicant is proposing consent to partial discharge of mortgage and consent to convey 404 sq. m of land ("Part 1") and 401 sq. m. of land ("Part 2") for future construction of semi-detached dwellings. The lands referred to as "Part 3" are to be dedicated to the Town of Pelham for a road widening. The remaining land ("Part 4") is to be retained for continued residential use.

A pre-consultation meeting for the applications was held on March 17, 2022. Staff provided comments on the initial submission of the application in a letter dated December 21, 2023. At this time staff were unable to support the application due to concerns relating to the septic system requirements, and the application was deferred.

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

Provincial and Regional Policies

The subject lands are located partially within the Settlement Area (Part 1 and 2 and the northeastern portion of Part 4 ("remnant parcel") and partially within the Prime Agricultural Area (and more specifically the Speciality Crop Area) (the remaining lands of Part 4) under the *Provincial Policy Statement, 2020* (PPS). A majority of the property is located within the Protected Countryside – Niagara Tender Fruit and Grape Area - within the *Greenbelt Plan, 2017* ("Greenbelt Plan"). The lands are designated in part as Delineated Built-Up Area (Part 1 and 2

and the northeastern portion of the remnant parcel) and in part as Specialty Crop Area (remaining lands of the remnant parcel) within the *Niagara Official Plan, 2022* ("NOP"). Staff acknowledge that the applications for Consent are confined to the Settlement Area/Delineated Built-Up Area, where population growth will be accommodated primarily through intensification, and that no new lots or development are proposed in the Specialty Crop Area.

Regional staff has reviewed the *Planning Brief* prepared by Upper Canada Consultants (no date). Staff acknowledge that the lands proposed to be severed are located entirely within the Urban/Settlement Area and, therefore, the proposal does not result in the creation of an additional new residential lot within the agricultural land base. Further, the Brief notes that the proposed residential development (semi-detached dwelling) would expand the range of available housing options and increase the housing supply, which is consistent with Provincial and Regional policies. The Brief references the Environmental Impact Study ("EIS") completed for the subject property, which identifies and assesses the proposals impact on the natural heritage features on the subject property (see the 'Natural Environment System' section below).

Overall, staff is satisfied with the analysis provided in the Planning Brief and have no further comments from a planning perspective.

Archaeological Resources

The subject property falls within the 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.

Staff has reviewed the *Stage 1-2 Archaeological Assessment* prepared by Detritus Consulting Ltd. (dated November 7, 2022). Based on recommendations from the Town, the assessment was limited to the lands subject to development and ground disturbance ("study area"), which makes up 0.37 ha of the 0.88 ha lot. The Stage 1 assessment identified six archaeological sites within a 1 kilometre radius of the study area. The assessments indicates that there is land disturbance from the existing buildings/structure on the property, which may eradicate archaeological potential. It was recommended that these areas be subject to a Stage 2 field assessment to confirm and document the degree and extent of disturbance.

The Stage 2 field assessment was conducted on August 25, 2022 which included test pit surveying of the treed area, side and backyards, manicured front yard, and greenspace behind the residential properties. The test pit survey was conducted within 1 metre of the building structures or until test pits showed evidence of recent ground disturbance. The field assessment concluded that the lands were free and clear of archaeological resources and that no further archaeological assessment was recommended.

Staff received a copy of the acknowledgement/acceptance letter from the Ministry of Citizenship and Multiculturalism (dated October 16, 2023).

Recognizing that no archaeological survey, regardless of its intensity, can entirely negate the possibility of deeply buried archaeological materials, Regional staff recommend the inclusion of the following standard archaeological clauses in the development agreement relating to deeply buried archaeological materials that may be encountered during grading and construction activities:

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 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.

Regional staff advise that any future development outside of the study area will require a separate Stage 1-2 archaeological assessment.

Natural Environment System

As previously noted, a pre-consultation meeting for the proposal was held on March 17, 2022 prior to the approval of the NOP by the Minister of Municipal Affairs and Housing on November 4, 2022. Policy 3.1.30.3.1 of the NOP states that, where a formal pre-consultation meeting has been completed within one (1) year of the approval of the NOP, and environmental requirements have been established through a signed pre-consultation agreement that has not expired, required environmental studies may be evaluated in accordance with the Regional policies that existed at the time the pre-consultation meeting was completed (provided the application is submitted within two years of the approval of the NOP). Accordingly, the environmental policies of the previous *Regional Official Plan, 2014* ("ROP") apply to the proposal.

Under the ROP, the subject lands are impacted by the Region's Core Natural Heritage System ("CNHS"), consisting of Significant Woodland, Significant Valleyland and a watercourse associated with Coyle Creek. As such, consistent with ROP policy 7.B.1.11, an Environmental Impact Study ("EIS") was requested in support of site alteration and/or development proposed adjacent to CNHS features to demonstrate that there will be no significant negative impact on the features or their ecological/hydrological function.

Regional staff reviewed the *Environmental Impact Study*, prepared by Terrastory Ecological Consulting Inc. (dated November 29, 2023), which confirms the presence of Significant Woodland, Significant Valleyland and the tributary of Coyle Creek. In addition, through the completion of ecological studies, the EIS identifies that the wooded valleyland contains Significant Wildlife Habitat associated with a Provincially Rare tree species (Pignut Hickory), Special Concern bird species (Eastern Wood-pewee) and significant Deer Wintering Area. Further, an Eastern Flowering Dogwood (endangered tree species) was identified within the manicured amenity space in front of the existing residence, while candidate Endangered Bat habitat is associated with the wooded valleyland.

The subject lands are currently developed with existing buildings and structures that extend into the valleyland/woodland. The EIS indicates that through this application, three of the existing residential buildings will be demolished, as well as the existing septic system for the

westernmost residence on the retained parcel. All new development (including lot lines) is proposed outside of the approved valleyland top of bank and Significant Woodland dripline. The Eastern Flowering Dogwood is proposed to be protected during demolition of the existing residence with tree protection fencing. Implementation of a Woodland Enhancement Plan is recommended in the EIS to enhance the ecological functions of the woodland/valleyland beyond existing conditions (i.e., achieve a net ecological benefit). A component of the Woodland Enhancement Plan includes restoring the open meadow area that occurs within the valleyland.

Staff is satisfied with the characterization of the subject lands. Provided the recommendations and mitigation strategy outlined in the EIS are implemented, the Region is satisfied that the ROP's policy test of 'no significant negative impact' to the CNHS has been achieved.

That said, the CNHS feature that has been characterized as high-functioning and the 0 metre setback is not sufficient to meet the 'no negative impact' test of the PPS. As such, the Region recommends the buffer width adjacent to the woodland/valleyland be maximized to extent possible to ensure no negative impacts to the adjacent woodland and valleyland. Staff, therefore, recommend that an updated Consent sketch be provided to the Region and Town for review that is consistent with and satisfactorily addresses the PPS test. Should the proposed lot fabric be deemed appropriate by the Committee, recommended conditions of approval relating to each proposed new lot are provided in the attached Appendix I to ensure EIS recommendations and mitigation measures are implemented.

Municipal Servicing – Proposed Lots (Parts 1 and 2)

The proposed two new lots are within the urban area; therefore, it is assumed they will be serviced by municipal servicing. The extension of the low pressure system will be under the jurisdiction and approval by the Town of Pelham. If there are any crossings of the Regional watermain detailed drawings are to be provided to the Region for review and approval prior to approval by the Town.

The only watermain available is a Regional hybrid watermain. The Region will require that detailed engineering plans be provided for the proposed water servicing for the two new lots. A Regional connection permit will be required for connections to the watermain. To obtain the connection permit a letter from the Town, detailed engineering drawings and a fee of \$1,250 will need to be provided to the Niagara Region (to the attention of Susan Dunsmore, P. Eng. Manager of Development Engineering at 905-980-6000 ext. 3661). Please be advised that connection permits are only valid for a period of one year.

Private Servicing – Retained Lot (Part 4)

Regional Private Sewage System staff conducted an on-site inspection on December 21, 2023. The property currently contains three dwellings that are privately serviced by sewage systems to the north. The existing septic tanks are located north of the dwellings and are to be decommissioned prior to the connection to municipal sewers or demolition. Staff advise that a tank decommissioning application issued by the Niagara Region will be required prior to demolition of the existing dwellings.

Staff received additional information indicating that the retained parcel has a replacement sewage system area. A percolation test was completed on-site which concluded an inground sewage system could be installed on the property in the future. No defects were observed with the system at the time of inspection; however, this system is considered legal non-conforming

as it contains a single chamber tank, and the bed is located in a steep slope. Any future changes to the dwelling which increase sewage flows would require a new sewage system in the replacement area to be installed. Staff note that all trees and driveway surfaces will need to be removed to ensure that the minimum building code setback area is achieved as per the Ontario Building Code (O. Reg. 332/12). The setbacks include 1.5 m from the septic tank to a structure and 5 m from the septic bed to a structure (driveway).

Therefore, Regional staff has no objection to the applications from a private servicing perspective, provided the two existing septic tanks are properly decommissioned and tank decommissioning applications are submitted to the Region.

Waste Collection

- Blue/grey –no limit (weekly)
- Green – no limit (weekly)
- Waste – 2 bag/can limit per lot (bi-weekly)
- **Curbside collection only**

Circular Materials Ontario is responsible for the delivery of residential Blue / Grey Box recycling collection services currently administered by Niagara Region. The most up to date information can be found using the following link: <https://www.circularmaterials.ca/resident-communities/niagara-region/>

Regional Bicycle Network

The subject property has frontage on Canboro Road, which is designated as part of the Regional Niagara Bicycling Network. If the bicycle routes are currently not established and identified with signage, it is the intent of the Region to make provisions for doing so when an appropriate opportunity arises. This may involve additional pavement width, elimination of on-street parking, etc.

Conclusion

Regional Growth Management and Planning Division staff has determined that the applications are consistent with the *Provincial Policy Statement* and in conformity with Provincial and Regional plans. As such, staff offer no objection to the applications, provided the two existing septic tanks are properly decommissioned and tank decommissioning applications are submitted to the Region.

The required connection permits for connection to the Regional watermain must be applied for, including the submission of detailed plan and profile drawings.

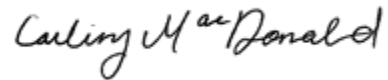
Preliminary conditions of approval are provided in the attached Appendix I for information with respect to implementation of the Environmental Impact Study recommendations and mitigation measures and archaeological advisory clauses.

Please contact the undersigned at Carling.MacDonald@niagararegion.ca or Pat Busnello at Pat.Busnello@niagararegion.ca should you have any questions related to the above comments.

Please send the Notice of Committee's Decision on these Applications when available.

March 19, 2024

Best Regards,

A handwritten signature in cursive script that reads "Carling MacDonald".

Carling MacDonald

Development Planner, Niagara Region

cc. Pat Busnello, MCIP, RPP, Manager of Development Planning, Niagara Region
Susan Dunsmore, P.Eng., Manager of Development Engineering, Niagara Region
Caitlin Goodale, Private Sewage System Inspector, Niagara Region
Adam Boudens, MSc, Senior Environmental Planner, Niagara Region

Appendix I

Preliminary Conditions of Approval

Consent File: B4-2024P - Part 1

That the landowner enters a Development Agreement with the Town of Pelham for Part 1, to be registered on title, which requires that the owner implement the recommendations of the Environmental Impact Study (prepared by Terrastory Ecological Consulting Inc., dated November 29, 2023), including but not limited to:

- a) That a Tree Preservation Plan (TPP) be prepared, to the satisfaction of Niagara Region, that indicates any trees that need to be removed to allow for the development of Part 1. The TPP should be prepared in accordance with the Region's Woodland Conservation By-law (By-law 20-79).
- b) That the development agreement contain wording wherein the owner agrees to implement the approved Tree Preservation Plan, prior to construction.
- c) Any necessary tree removal and demolition of the existing buildings or structures will take place between October 1 and April 30 to avoid the active season for bats. Should minor tree removal be required between May 1 and September 30, a qualified professional will complete an exit survey of suitable maternal roosting sites identified for removal a maximum of 24 hours before removal. The exit survey must make use of a bat detector and will occur for no less than the time period between sunset and 60 minutes after sunset. If an Endangered bat is identified during the survey, Ministry of the Environment, Conservation and Parks (MECP) should be contacted to obtain further direction prior to removal of the tree.
- d) If construction activities occur during the active bat season (i.e., May 1 and September 30), work will be restricted to daylight hours only and the use of artificial lighting will be avoided.
- e) Any lighting incorporated into the final building designs should be directed downward (i.e., towards the ground) and/or away from the adjacent woodlot (i.e., directed eastward) to the extent practicable.
- f) The removal of trees will be restricted to areas in direct conflict with the footprints of the proposed development features (e.g., residence, septic system, driveway, etc.) and grading, along with any hazardous trees in the immediate vicinity that pose an unacceptable risk to human life or property.
- g) All necessary vegetation removal will be completed outside the primary bird nesting period (i.e., to be completed between September 1 and March 31). Should minor vegetation removal be proposed during the bird nesting period, a bird nesting survey will be undertaken to confirm the presence or absence of nesting birds or bird nests within or adjacent to the areas subject to vegetation clearance. The survey is to take place within 48 hours of vegetation removal.
- h) Incorporation of Bird-Friendly Guidelines into the residence design such as those published in City of Toronto's "Best Practices for Bird-Friendly Glass" and "Best Practices for Effective Lighting" should be considered at detailed design.

- i) Any Landscape Plans prepared as part of the development approval should incorporate species native to the local landscape.
- j) That a light duty silt fence be installed at the limit of any excavation and grading to delineate the work area and help minimize impacts (e.g., sedimentation and accidental encroachment) to adjacent vegetation and that the silt fence be properly embedded (as per Ontario Provincial Standard Specification 805) into the ground to reduce any offsite movement of silt. The silt fence used should be one that does not include a mesh component, to avoid risk of entanglement of wildlife.
- k) That the contractor has a spill kit on site to minimize potential contamination from accidental spills. The equipment should be inspected for leaks and refueling be completed in accordance with best management practices and at least 30 m away from the woodland.
- l) That continuous, permanent fencing be installed along the rear property line, adjacent to the Significant Woodland, to delineate property boundaries to limit potential encroachment into the woodland.

Consent File: B5-2024P - Part 2

That the landowner enters a Development Agreement with the Town of Pelham for Part 2, to be registered on title, which requires that the owner implement the recommendations of the Environmental Impact Study (prepared by Terrastory Ecological Consulting Inc., dated November 29, 2023), including but not limited to:

- a) That a Tree Preservation Plan (TPP) be prepared, to the satisfaction of Niagara Region, that indicates any trees that need to be removed to allow for the development of Part 2. The TPP should be prepared in accordance with the Region's Woodland Conservation By-law (By-law 20-79).
- b) That the development agreement contain wording wherein the owner agrees to implement the approved Tree Preservation Plan, prior to construction.
- c) Any necessary tree removal and demolition of the existing buildings or structures will take place between October 1 and April 30 to avoid the active season for bats. Should minor tree removal be required between May 1 and September 30, a qualified professional will complete an exit survey of suitable maternal roosting sites identified for removal a maximum of 24 hours before removal. The exit survey must make use of a bat detector and will occur for no less than the time period between sunset and 60 minutes after sunset. If an Endangered bat is identified during the survey, Ministry of the Environment, Conservation and Parks (MECP) should be contacted to obtain further direction prior to removal of the tree.
- d) If construction activities occur during the active bat season (i.e., May 1 and September 30), work will be restricted to daylight hours only and the use of artificial lighting will be avoided.
- e) Any lighting incorporated into the final building designs should be directed downward (i.e., towards the ground) and/or away from the adjacent woodlot (i.e., directed eastward) to the extent practicable.

- f) The removal of trees will be restricted to areas in direct conflict with the footprints of the proposed development features (e.g., residence, septic system, driveway, etc.) and grading, along with any hazardous trees in the immediate vicinity that pose an unacceptable risk to human life or property.
- g) All necessary vegetation removal will be completed outside the primary bird nesting period (i.e., to be completed between September 1 and March 31). Should minor vegetation removal be proposed during the bird nesting period, a bird nesting survey will be undertaken to confirm the presence or absence of nesting birds or bird nests within or adjacent to the areas subject to vegetation clearance. The survey is to take place within 48 hours of vegetation removal.
- h) Incorporation of Bird-Friendly Guidelines into the residence design such as those published in City of Toronto's "Best Practices for Bird-Friendly Glass" and "Best Practices for Effective Lighting" should be considered at detailed design.
- i) Any Landscape Plans prepared as part of the development approval should incorporate species native to the local landscape.
- j) That a light duty silt fence be installed at the limit of any excavation and grading to delineate the work area and help minimize impacts (e.g., sedimentation and accidental encroachment) to adjacent vegetation and that the silt fence be properly embedded (as per Ontario Provincial Standard Specification 805) into the ground to reduce any offsite movement of silt. The silt fence used should be one that does not include a mesh component, to avoid risk of entanglement of wildlife.
- k) That the contractor has a spill kit on site to minimize potential contamination from accidental spills. The equipment should be inspected for leaks and refueling be completed in accordance with best management practices and at least 30 m away from the woodland.
- l) That continuous, permanent fencing be installed along the rear property line, adjacent to the Significant Woodland, to delineate property boundaries to limit potential encroachment into the woodland.

Consent Files: B4-2024P & B5-2024P - Part 4

That the landowner enters a Development Agreement with the Town of Pelham for Part 4, to be registered on title, which requires that the owner implement the recommendations of the Environmental Impact Study (prepared by Terrastory Ecological Consulting Inc., dated November 29, 2023), including but not limited to:

- a) That a Woodland Enhancement Plan be prepared, to the satisfaction of Niagara Region, for the area indicated on Figure 3 of the EIS. The Plan shall consist of a diversity of native tree and shrub plantings and incorporate wildlife habitat enhancement elements. Plantings of Pignut Hickory shall be incorporated into the Woodland Enhancement Plan
- b) That a Tree Preservation Plan (TPP) be prepared, to the satisfaction of Niagara Region, that indicates any trees that need to be removed to allow for the

development of Part 4. The TPP should be prepared in accordance with the Region's Woodland Conservation By-law (By-law 20-79).

- c) That the development agreement contain wording wherein the owner agrees to implement the approved Tree Preservation Plan and Woodland Enhancement Plan, prior to construction.
- d) That tree protection fencing be installed surrounding the Eastern Flowering Dogwood at the time of construction to avoid incidental mechanical damage to the trunk, branches, or roots.
- e) Any necessary tree removal and demolition of the existing buildings or structure will take place between October 1 and April 30 to avoid the active season for bats. Should minor tree removal be required between May 1 and September 30, a qualified professional will complete an exit survey of suitable maternal roosting sites identified for removal a maximum of 24 hours before removal. The exit survey must make use of a bat detector and will occur for no less than the time period between sunset and 60 minutes after sunset. If an Endangered bat is identified during the survey, Ministry of the Environment, Conservation and Parks (MECP) should be contacted to obtain further direction prior to removal of the tree.
- f) If construction activities occur during the active bat season (i.e., May 1 and September 30), work will be restricted to daylight hours only and the use of artificial lighting will be avoided.
- g) The removal of trees will be restricted to areas in direct conflict with the footprints of the proposed development features (e.g., residence, septic system, driveway, etc.) and grading, along with any hazardous trees in the immediate vicinity that pose an unacceptable risk to human life or property.
- h) All necessary vegetation removal will be completed outside the primary bird nesting period (i.e., to be completed between September 1 and March 31). Should minor vegetation removal be proposed during the bird nesting period, a bird nesting survey will be undertaken to confirm the presence or absence of nesting birds or bird nests within or adjacent to the areas subject to vegetation clearance. The survey is to take place within 48 hours of vegetation removal.
- i) Any Landscape Plans prepared as part of the development approval should incorporate species native to the local landscape.
- j) That a light duty silt fence be installed at the limit of any excavation and grading to delineate the work area and help minimize impacts (e.g., sedimentation and accidental encroachment) to adjacent vegetation and that the silt fence be properly embedded (as per Ontario Provincial Standard Specification 805) into the ground to reduce any offsite movement of silt. The silt fence used should be one that does not include a mesh component, to avoid risk of entanglement of wildlife.
- k) That the contractor has a spill kit on site to minimize potential contamination from accidental spills. The equipment should be inspected for leaks and refueling be completed in accordance with best management practices and at least 30 m away from the woodland.

Consent Files: B4-2024P & B5-2024P

That the following archaeological advisory clause be inserted in the Development Agreement between the landowner and Town of Pelham:

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 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.

Sarah Leach

Subject: RE: NPCA comments regarding 201 Canboro Road Applications for April 02, 2024

From: Meghan Birbeck
Sent: Monday, March 4, 2024 4:30 PM
To: Andrew Edwards <AEwards@pelham.ca>
Cc: Shannon Larocque <SLarocque@pelham.ca>
Subject: NPCA comments regarding 201 Canboro Road Applications for April 02, 2024

Good afternoon Andrew,

Thank you so much for circulating the revised Plans (Severance Sketch dated February 16, 2024 by Kirkup Mascoe Ure Surveying and Severance Concept dated February 23, 2024 by Upper Canda Consultants) and Report (Supplemental Slope Stability Considerations dated February 22, 2024 by Soil-Mat Engineers) for the consent application at 201 Canboro Rd.

Technical staff have had a review of the reviewed material and are satisfied that NPCA comments have been addressed.

As such, the NPCA can support the severance application.

Please note that any proposed development will require NPCA approval and possible work permits.

Best,
Meghan



Meghan Birbeck (MS)
Watershed Planner

Niagara Peninsula Conservation Authority (NPCA)
250 Thorold Road West, 3rd Floor | Welland, ON L3C 3W2

905.788.3135 Ext 278
www.npca.ca
mbirbeck@npca.ca



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

Tuesday, April 02, 2024

Minor Variance Application: A6-2024P

Municipal Address: 201 Canboro Road

Legal Description: Part Lot 4, Concession 8 as in R0685205 (Part 1 on Sketch)

Roll number: 2732 020 010 10500

Nature and Extent of Relief/ Permission Applied for:

The subject parcel, shown as Part 1 on the attached sketch, has a frontage of 13.66m on the north side of Canboro Road, lying south of Highway 20 being Part Lot 4, Concession 8 in the Town of Pelham.

The subject land is zoned Residential 2 (R2) in accordance with Pelham Zoning By-law 4481 (2022), as amended. Application is made to construct a semi-detached dwelling, and seeks relief from:

1. **Section 6.2.3** – requesting a minimum rear yard setback of 5.75 metres whereas a minimum rear yard setback of 7.5 metres is required.

This application is being considered concurrently with Consent Files B4-2024P and B5-2024P, and minor variance application A7-2024P.

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.

Section 3 of the *Planning Act* requires that decisions affecting planning matters “shall be consistent with” policy statements issued under the Act. The PPS recognizes the diversity of Ontario and that local context is important. Policies are outcome-oriented, and some policies provide flexibility provided that provincial interests are upheld. PPS policies represent minimum standards.

The subject land is located in a ‘Settlement Area’ according to the PPS. Policy 1.1.3.1 states that settlement areas shall be the focus of growth and development.

Infill development is an acceptable form of *intensification* so long as new development is compatible in nature, is compact, and avoids adverse impacts to provincial interest, public health, safety and the quality of the human environment.

Planning staff are of the opinion the requested zoning relief is consistent with the PPS and promotes appropriate development standards that help facilitate compact form and *intensification*.

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 lands are located within the Delineated Built Boundary. Section 2.2.1 of the Growth Plan directs growth to settlement areas that have a delineated built boundary, have existing municipal services, and can support the achievement of complete communities. The Growth Plan states municipalities will support the achievement of complete communities by planning to accommodate forecasted growth, planning to achievement the minimum intensification and density targets of the Plan, considering the range and mix of housing options and densities of existing housing stock, and planning diversify overall housing stock.

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

Regional Official Plan (Adopted 2022)

The Region of Niagara adopted a new Regional Official Plan (ROP) on June 23, 2022. It was approved by the Province in November 2022. The subject lands are recognized as Built-Up Area in the Regional Official Plan.

Policy 2.3.1.4 provides that new residential development and residential intensification are encouraged to be planned and designed to mitigate and adapt to the impacts of climate change by:

- a) facilitating compact built form; and
- b) incorporating sustainable housing construction materials or practices, green infrastructure, energy conservation standards, water efficient technologies, and low impact development.

Planning staff are of the opinion the proposed variance conforms with the Regional Official Plan.

Town of Pelham Official Plan (2014)

The Town of Pelham Official Plan is the primary planning document that will direct the actions of the Town and shape growth that will support and emphasize Pelham's unique character, diversity, cultural heritage and protect natural heritage features.

The local Official Plan designates the subject land as 'Urban Living Area / Built Boundary.' Section B1.1.2 outlines the permitted uses and intentions of this designation, which are supportive of the development of lower density residential uses as part of a complete community.

Policy A2.2.2 Growth & Settlement – states that it is a goal of this Plan to encourage intensification and redevelopment within the *Urban Area* specifically in proximity to the Downtown. The proposal is seen as an appropriate form of intensification in the Urban Area.

Section B1.1 of the Official Plan provides the policy base of the Urban Living Area designation. Policy B1.1.1 recognizes the existing urban area of Fonthill and the role the Town will need to accommodate various forms of residential intensifications, where appropriate. The proposal is supported by the Town Official Plan policies that encourage infill within existing built-up areas. It is noted compatibility does not necessarily mean the same as, rather the ability to coexist together.

Policy E1.5 states that in addition to the Planning Act's four tests considered in determining whether to grant a minor variance, applicants should be prepared to demonstrate a need for the requested relief on the basis that the subject zoning provision is not warranted in a particular circumstance, causes undue hardship, or is otherwise impossible to comply with. The applicant provided a planning justification report along with the concurrently applications for consent.

Town Planning staff are of the opinion the proposed minor variance conforms to the local Official Plan as it helps enable appropriate redevelopment and *intensification* within an existing residential neighbourhood and does not conflict with any policies subject to the fulfillment of the proposed conditions of approval.

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

The subject lands are zoned Residential 2 (R2) per Town of Pelham Comprehensive Zoning By-law 4481. Single detached and semi-detached dwelling and accessory uses are permitted uses in the R2 zone. Under the regulations of the Zoning By-law, the minor variance application requests relief from:

- **Section 6.2.3 – Minimum Rear Yard** - requesting a minimum rear yard setback of 5.75 metres whereas a minimum rear yard setback of 7.5 metres is required.

The Committee of Adjustment, in accordance with Section 45 (1) of the *Planning Act*, may authorize a minor variance from the provisions of the by-law, subject to the following considerations:

Minor Variance Test	Test Response/Explanation
The variance is minor in nature.	<p>Section 6.2.3 – Minimum Rear Yard</p> <p>Yes, the variance is minor in nature.</p> <p>The impact of the reduction in the rear yard setback can be considered minor in this instance as functional private amenity area is still maintained on the site. Drainage concerns will be addressed through a lot grading and drainage plan that will ensure drainage is addressed on site and will not rely on neighbouring properties.</p> <p>As such, staff are of the opinion the variance is minor in nature.</p>
The variance is desirable for the development or use of the land.	<p>Section 6.2.3 – Minimum Rear Yard</p> <p>Yes, the variance is desirable for the development or use of the land.</p> <p>The requested variance is not anticipated to have a significant negative impact on the streetscape or adjacent properties. Staff note the proposed semi-detached dwelling is opposed to be sited further back from the slope than the existing single detached dwelling. The reduction to the rear yard setback in this instance is desirable as appropriate private amenity area will be maintained.</p> <p>As such, staff are of the opinion the variance is desirable for the development or use of the land.</p>
The variance maintains the general intent and purpose of the Zoning By-law.	<p>Section 6.2.3 – Minimum Rear Yard</p> <p>Yes, the variance maintains the general intent and purpose of the Zoning By-law.</p> <p>The intent of the rear yard setback is to ensure separation distance between abutting residential uses and to ensure there remains adequate amenity area for the lot in question. There remains an outdoor amenity area of approximately 81.5 m² to serve the proposed units.</p> <p>Further, the property backs on to lands zoned for Environmental Protection. There would appear to be ample separation to neighbouring land uses in terms of rear yard setback.</p>

	<p>The existing structures are currently on, or near, the edge of the top of slope and are closer to the Significant Woodland than the proposed semi-detached dwelling.</p> <p>With regards to the reduced rear yard, lot grading and drainage requirements are recommended as a condition of approval for the proposed development. A condition is being recommended that requires the proponent to prepare a grading and drainage plan to the satisfaction of the Director of Public Works that demonstrates that appropriate on-site drainage can occur without adversely impacting adjacent properties.</p> <p>As such, staff are of the opinion the variance maintains the general intent and purpose of the Zoning By-law.</p>
The variance maintains the general intent and purpose of the Official Plan.	<p>Section 6.2.3 – Minimum Rear Yard</p> <p>Yes, the variance maintains the general intent and purpose of the Official Plan.</p> <p>Staff are of the opinion that the requested variance is not considered to have significant impacts within the context of the Official Plan. The subject land's use is within the permitted use of the Urban Living Area / Built Boundary designation. The variance will facilitate appropriate redevelopment and intensification within an existing residential neighbourhood and does not conflict with any policies subject to demonstration of appropriate urban design and fulfillment of the proposed conditions of approval, including a lot grading and drainage plan.</p> <p>An Environmental Impact Study delineated the Significant Woodland feature. The proposed development is outside the natural heritage feature, and the dwellings are proposed with a setback of approximately 8m from the feature.</p> <p>As such, staff are of the opinion the variance maintains the general intent and purpose of the Official Plan.</p>

Agency and Public Comments:

On March 6, 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
 - Building permit approval is required for the proposed semi-detached dwelling.
- Public Works Department
 - Please be advised that no sideyard walkways that impede sideyard swales shall be permitted
 - Please note that the Town does not allow any service connections for Part 4 as it is not within the urban boundary.
- Niagara Region

- Refer to comments on consent applications.
- Niagara Peninsula Conservation Authority
 - Refer to comments on consent applications.

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

Planning Staff Comments:

Planning staff have reviewed the Planning Opinion Letter submitted by Upper Canada Consultants dated February 29, 2024, as well as reviewed all agency and public correspondence submitted to date.

Based on the analysis given in above sections, staff is of the opinion the proposal:

- makes efficient use of the land;
- will not result in overbuilding of the property;
- will not alter the view, sightlines or personal enjoyment of the subject property or any neighbouring properties; and,
- should not negatively impact the surrounding neighbourhood with regards to land use incompatibility, traffic, privacy, and storm water runoff.

The requested variance is minor in nature, conforms to the general policies and intent of both the Official Plan and Zoning By-law and is appropriate for the development and use of the land.

Planning Staff Recommendation:

Planning staff recommend that minor variance file A6/2024P **be approved** subject to the following condition(s):

THAT the applicant:

- That all necessary building and demolition permits be acquired prior to construction commencing, to the satisfaction of the Chief Building Official.
- 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, to the satisfaction of the Director of Public Works or his designate.
- That the approval of the minor variance is subject to Consent Files B4-2024P and B5-2024P obtaining final approval.

Prepared and Submitted by:

Andrew Edwards, BES
Planner

Recommended by:

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

**Engineering Department
Committee of Adjustment Report****For****A6-2024P
201 Canboro Road Part 1****March 20, 2024**

Town staff have reviewed the following documentation for the purpose of **A6-2024P – 201 Canboro Road Part 1** consent application for:

Application is made for consent to permit a reduction of the minimum rear yard setback from the required 7.5m for a semi-detached dwelling on Part 1,

to a minimum rear yard setback of 5.75m (Section 6.2.3 of Comprehensive Zoning By-law 4481 (2022)).

This application is being considered concurrently with Minor Variance File A6-2024P and A7-2024P and consent application B4-2024P and B5-2024P.

Introduction:

The subject parcel, shown as Part 1 on the attached sketch, has a frontage of 13.66m on the north side of Canboro Road, lying south of Highway 20 being Part Lot 4, Concession 8 in the Town of Pelham.

The purpose and effect of the application is to create two (2) new parcels for future residential use. The applications propose to sever two (2) parcels from the remnant parcel, resulting in a total of three (3) parcels on lands known municipally as 201 Canboro Road in the Town of Pelham. Three (3) single detached dwellings are currently present on the lands along with a detached garage. The most westerly dwelling is proposed to remain while the rest of the structures are proposed to be removed in order to accommodate the future dwellings.

Analysis:

Please see comments and conditions for B4-2024P and B5-2024P

Public Works offer the following comment and Conditions:

Please see comments and conditions for B4-2024P and B5-2024P

To: Sarah Leach

Cc: Andrew Edwards

From: Alex Foisey, Building Intake/Zoning Technician

Date: March 20th, 2024

Subject: Building Comments on Applications to the Committee of Adjustment for
201 Canboro Road – Part 1

File Number: A6-2024P

Comments:

- Building Permit is required for proposed Semi-Detached Dwelling.

Respectfully,
Alex Foisey

Growth Management and Planning Division

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

Via Email

March 19, 2024

Regional File: D.06.06.CS-23-0114, D.06.06.CS-23-0115

Sarah Leach
Deputy Clerk/Secretary-Treasurer
Town of Pelham
20 Pelham Town Square, P.O. Box 400
Fonthill, ON L0S 1E0

Dear Ms. Leach:

Re: Regional and Provincial Review Comments
Consent Applications
Town File: B4-2024P, B5-2024P, A6-2024P & A7-2024P
Owner: [REDACTED]
Agent/Applicant: [REDACTED]
201 Canboro Road
Town of Pelham

Regional Growth Management and Planning Division staff has reviewed the materials circulated with the two Consent applications for the lands located at 201 Canboro Road in the Town of Pelham ("subject lands").

The applicant is proposing consent to partial discharge of mortgage and consent to convey 404 sq. m of land ("Part 1") and 401 sq. m. of land ("Part 2") for future construction of semi-detached dwellings. The lands referred to as "Part 3" are to be dedicated to the Town of Pelham for a road widening. The remaining land ("Part 4") is to be retained for continued residential use.

A pre-consultation meeting for the applications was held on March 17, 2022. Staff provided comments on the initial submission of the application in a letter dated December 21, 2023. At this time staff were unable to support the application due to concerns relating to the septic system requirements, and the application was deferred.

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

Provincial and Regional Policies

The subject lands are located partially within the Settlement Area (Part 1 and 2 and the northeastern portion of Part 4 ("remnant parcel") and partially within the Prime Agricultural Area (and more specifically the Speciality Crop Area) (the remaining lands of Part 4) under the *Provincial Policy Statement, 2020* (PPS). A majority of the property is located within the Protected Countryside – Niagara Tender Fruit and Grape Area - within the *Greenbelt Plan, 2017* ("Greenbelt Plan"). The lands are designated in part as Delineated Built-Up Area (Part 1 and 2

and the northeastern portion of the remnant parcel) and in part as Specialty Crop Area (remaining lands of the remnant parcel) within the *Niagara Official Plan, 2022* ("NOP"). Staff acknowledge that the applications for Consent are confined to the Settlement Area/Delineated Built-Up Area, where population growth will be accommodated primarily through intensification, and that no new lots or development are proposed in the Specialty Crop Area.

Regional staff has reviewed the *Planning Brief* prepared by Upper Canada Consultants (no date). Staff acknowledge that the lands proposed to be severed are located entirely within the Urban/Settlement Area and, therefore, the proposal does not result in the creation of an additional new residential lot within the agricultural land base. Further, the Brief notes that the proposed residential development (semi-detached dwelling) would expand the range of available housing options and increase the housing supply, which is consistent with Provincial and Regional policies. The Brief references the Environmental Impact Study ("EIS") completed for the subject property, which identifies and assesses the proposals impact on the natural heritage features on the subject property (see the 'Natural Environment System' section below).

Overall, staff is satisfied with the analysis provided in the Planning Brief and have no further comments from a planning perspective.

Archaeological Resources

The subject property falls within the 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.

Staff has reviewed the *Stage 1-2 Archaeological Assessment* prepared by Detritus Consulting Ltd. (dated November 7, 2022). Based on recommendations from the Town, the assessment was limited to the lands subject to development and ground disturbance ("study area"), which makes up 0.37 ha of the 0.88 ha lot. The Stage 1 assessment identified six archaeological sites within a 1 kilometre radius of the study area. The assessments indicates that there is land disturbance from the existing buildings/structure on the property, which may eradicate archaeological potential. It was recommended that these areas be subject to a Stage 2 field assessment to confirm and document the degree and extent of disturbance.

The Stage 2 field assessment was conducted on August 25, 2022 which included test pit surveying of the treed area, side and backyards, manicured front yard, and greenspace behind the residential properties. The test pit survey was conducted within 1 metre of the building structures or until test pits showed evidence of recent ground disturbance. The field assessment concluded that the lands were free and clear of archaeological resources and that no further archaeological assessment was recommended.

Staff received a copy of the acknowledgement/acceptance letter from the Ministry of Citizenship and Multiculturalism (dated October 16, 2023).

Recognizing that no archaeological survey, regardless of its intensity, can entirely negate the possibility of deeply buried archaeological materials, Regional staff recommend the inclusion of the following standard archaeological clauses in the development agreement relating to deeply buried archaeological materials that may be encountered during grading and construction activities:

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 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.

Regional staff advise that any future development outside of the study area will require a separate Stage 1-2 archaeological assessment.

Natural Environment System

As previously noted, a pre-consultation meeting for the proposal was held on March 17, 2022 prior to the approval of the NOP by the Minister of Municipal Affairs and Housing on November 4, 2022. Policy 3.1.30.3.1 of the NOP states that, where a formal pre-consultation meeting has been completed within one (1) year of the approval of the NOP, and environmental requirements have been established through a signed pre-consultation agreement that has not expired, required environmental studies may be evaluated in accordance with the Regional policies that existed at the time the pre-consultation meeting was completed (provided the application is submitted within two years of the approval of the NOP). Accordingly, the environmental policies of the previous *Regional Official Plan, 2014* ("ROP") apply to the proposal.

Under the ROP, the subject lands are impacted by the Region's Core Natural Heritage System ("CNHS"), consisting of Significant Woodland, Significant Valleyland and a watercourse associated with Coyle Creek. As such, consistent with ROP policy 7.B.1.11, an Environmental Impact Study ("EIS") was requested in support of site alteration and/or development proposed adjacent to CNHS features to demonstrate that there will be no significant negative impact on the features or their ecological/hydrological function.

Regional staff reviewed the *Environmental Impact Study*, prepared by Terrastory Ecological Consulting Inc. (dated November 29, 2023), which confirms the presence of Significant Woodland, Significant Valleyland and the tributary of Coyle Creek. In addition, through the completion of ecological studies, the EIS identifies that the wooded valleyland contains Significant Wildlife Habitat associated with a Provincially Rare tree species (Pignut Hickory), Special Concern bird species (Eastern Wood-pewee) and significant Deer Wintering Area. Further, an Eastern Flowering Dogwood (endangered tree species) was identified within the manicured amenity space in front of the existing residence, while candidate Endangered Bat habitat is associated with the wooded valleyland.

The subject lands are currently developed with existing buildings and structures that extend into the valleyland/woodland. The EIS indicates that through this application, three of the existing residential buildings will be demolished, as well as the existing septic system for the

westernmost residence on the retained parcel. All new development (including lot lines) is proposed outside of the approved valleyland top of bank and Significant Woodland dripline. The Eastern Flowering Dogwood is proposed to be protected during demolition of the existing residence with tree protection fencing. Implementation of a Woodland Enhancement Plan is recommended in the EIS to enhance the ecological functions of the woodland/valleyland beyond existing conditions (i.e., achieve a net ecological benefit). A component of the Woodland Enhancement Plan includes restoring the open meadow area that occurs within the valleyland.

Staff is satisfied with the characterization of the subject lands. Provided the recommendations and mitigation strategy outlined in the EIS are implemented, the Region is satisfied that the ROP's policy test of 'no significant negative impact' to the CNHS has been achieved.

That said, the CNHS feature that has been characterized as high-functioning and the 0 metre setback is not sufficient to meet the 'no negative impact' test of the PPS. As such, the Region recommends the buffer width adjacent to the woodland/valleyland be maximized to extent possible to ensure no negative impacts to the adjacent woodland and valleyland. Staff, therefore, recommend that an updated Consent sketch be provided to the Region and Town for review that is consistent with and satisfactorily addresses the PPS test. Should the proposed lot fabric be deemed appropriate by the Committee, recommended conditions of approval relating to each proposed new lot are provided in the attached Appendix I to ensure EIS recommendations and mitigation measures are implemented.

Municipal Servicing – Proposed Lots (Parts 1 and 2)

The proposed two new lots are within the urban area; therefore, it is assumed they will be serviced by municipal servicing. The extension of the low pressure system will be under the jurisdiction and approval by the Town of Pelham. If there are any crossings of the Regional watermain detailed drawings are to be provided to the Region for review and approval prior to approval by the Town.

The only watermain available is a Regional hybrid watermain. The Region will require that detailed engineering plans be provided for the proposed water servicing for the two new lots. A Regional connection permit will be required for connections to the watermain. To obtain the connection permit a letter from the Town, detailed engineering drawings and a fee of \$1,250 will need to be provided to the Niagara Region (to the attention of Susan Dunsmore, P. Eng. Manager of Development Engineering at 905-980-6000 ext. 3661). Please be advised that connection permits are only valid for a period of one year.

Private Servicing – Retained Lot (Part 4)

Regional Private Sewage System staff conducted an on-site inspection on December 21, 2023. The property currently contains three dwellings that are privately serviced by sewage systems to the north. The existing septic tanks are located north of the dwellings and are to be decommissioned prior to the connection to municipal sewers or demolition. Staff advise that a tank decommissioning application issued by the Niagara Region will be required prior to demolition of the existing dwellings.

Staff received additional information indicating that the retained parcel has a replacement sewage system area. A percolation test was completed on-site which concluded an inground sewage system could be installed on the property in the future. No defects were observed with the system at the time of inspection; however, this system is considered legal non-conforming

as it contains a single chamber tank, and the bed is located in a steep slope. Any future changes to the dwelling which increase sewage flows would require a new sewage system in the replacement area to be installed. Staff note that all trees and driveway surfaces will need to be removed to ensure that the minimum building code setback area is achieved as per the Ontario Building Code (O. Reg. 332/12). The setbacks include 1.5 m from the septic tank to a structure and 5 m from the septic bed to a structure (driveway).

Therefore, Regional staff has no objection to the applications from a private servicing perspective, provided the two existing septic tanks are properly decommissioned and tank decommissioning applications are submitted to the Region.

Waste Collection

- Blue/grey –no limit (weekly)
- Green – no limit (weekly)
- Waste – 2 bag/can limit per lot (bi-weekly)
- **Curbside collection only**

Circular Materials Ontario is responsible for the delivery of residential Blue / Grey Box recycling collection services currently administered by Niagara Region. The most up to date information can be found using the following link: <https://www.circularmaterials.ca/resident-communities/niagara-region/>

Regional Bicycle Network

The subject property has frontage on Canboro Road, which is designated as part of the Regional Niagara Bicycling Network. If the bicycle routes are currently not established and identified with signage, it is the intent of the Region to make provisions for doing so when an appropriate opportunity arises. This may involve additional pavement width, elimination of on-street parking, etc.

Conclusion

Regional Growth Management and Planning Division staff has determined that the applications are consistent with the *Provincial Policy Statement* and in conformity with Provincial and Regional plans. As such, staff offer no objection to the applications, provided the two existing septic tanks are properly decommissioned and tank decommissioning applications are submitted to the Region.

The required connection permits for connection to the Regional watermain must be applied for, including the submission of detailed plan and profile drawings.

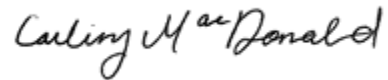
Preliminary conditions of approval are provided in the attached Appendix I for information with respect to implementation of the Environmental Impact Study recommendations and mitigation measures and archaeological advisory clauses.

Please contact the undersigned at Carling.MacDonald@niagararegion.ca or Pat Busnello at Pat.Busnello@niagararegion.ca should you have any questions related to the above comments.

Please send the Notice of Committee's Decision on these Applications when available.

March 19, 2024

Best Regards,

A handwritten signature in black ink that reads "Carling MacDonald". The signature is written in a cursive, flowing style.

Carling MacDonald

Development Planner, Niagara Region

cc. Pat Busnello, MCIP, RPP, Manager of Development Planning, Niagara Region
Susan Dunsmore, P.Eng., Manager of Development Engineering, Niagara Region
Caitlin Goodale, Private Sewage System Inspector, Niagara Region
Adam Boudens, MSc, Senior Environmental Planner, Niagara Region

Appendix I

Preliminary Conditions of Approval

Consent File: B4-2024P - Part 1

That the landowner enters a Development Agreement with the Town of Pelham for Part 1, to be registered on title, which requires that the owner implement the recommendations of the Environmental Impact Study (prepared by Terrastory Ecological Consulting Inc., dated November 29, 2023), including but not limited to:

- a) That a Tree Preservation Plan (TPP) be prepared, to the satisfaction of Niagara Region, that indicates any trees that need to be removed to allow for the development of Part 1. The TPP should be prepared in accordance with the Region's Woodland Conservation By-law (By-law 20-79).
- b) That the development agreement contain wording wherein the owner agrees to implement the approved Tree Preservation Plan, prior to construction.
- c) Any necessary tree removal and demolition of the existing buildings or structures will take place between October 1 and April 30 to avoid the active season for bats. Should minor tree removal be required between May 1 and September 30, a qualified professional will complete an exit survey of suitable maternal roosting sites identified for removal a maximum of 24 hours before removal. The exit survey must make use of a bat detector and will occur for no less than the time period between sunset and 60 minutes after sunset. If an Endangered bat is identified during the survey, Ministry of the Environment, Conservation and Parks (MECP) should be contacted to obtain further direction prior to removal of the tree.
- d) If construction activities occur during the active bat season (i.e., May 1 and September 30), work will be restricted to daylight hours only and the use of artificial lighting will be avoided.
- e) Any lighting incorporated into the final building designs should be directed downward (i.e., towards the ground) and/or away from the adjacent woodlot (i.e., directed eastward) to the extent practicable.
- f) The removal of trees will be restricted to areas in direct conflict with the footprints of the proposed development features (e.g., residence, septic system, driveway, etc.) and grading, along with any hazardous trees in the immediate vicinity that pose an unacceptable risk to human life or property.
- g) All necessary vegetation removal will be completed outside the primary bird nesting period (i.e., to be completed between September 1 and March 31). Should minor vegetation removal be proposed during the bird nesting period, a bird nesting survey will be undertaken to confirm the presence or absence of nesting birds or bird nests within or adjacent to the areas subject to vegetation clearance. The survey is to take place within 48 hours of vegetation removal.
- h) Incorporation of Bird-Friendly Guidelines into the residence design such as those published in City of Toronto's "Best Practices for Bird-Friendly Glass" and "Best Practices for Effective Lighting" should be considered at detailed design.

- i) Any Landscape Plans prepared as part of the development approval should incorporate species native to the local landscape.
- j) That a light duty silt fence be installed at the limit of any excavation and grading to delineate the work area and help minimize impacts (e.g., sedimentation and accidental encroachment) to adjacent vegetation and that the silt fence be properly embedded (as per Ontario Provincial Standard Specification 805) into the ground to reduce any offsite movement of silt. The silt fence used should be one that does not include a mesh component, to avoid risk of entanglement of wildlife.
- k) That the contractor has a spill kit on site to minimize potential contamination from accidental spills. The equipment should be inspected for leaks and refueling be completed in accordance with best management practices and at least 30 m away from the woodland.
- l) That continuous, permanent fencing be installed along the rear property line, adjacent to the Significant Woodland, to delineate property boundaries to limit potential encroachment into the woodland.

Consent File: B5-2024P - Part 2

That the landowner enters a Development Agreement with the Town of Pelham for Part 2, to be registered on title, which requires that the owner implement the recommendations of the Environmental Impact Study (prepared by Terrastory Ecological Consulting Inc., dated November 29, 2023), including but not limited to:

- a) That a Tree Preservation Plan (TPP) be prepared, to the satisfaction of Niagara Region, that indicates any trees that need to be removed to allow for the development of Part 2. The TPP should be prepared in accordance with the Region's Woodland Conservation By-law (By-law 20-79).
- b) That the development agreement contain wording wherein the owner agrees to implement the approved Tree Preservation Plan, prior to construction.
- c) Any necessary tree removal and demolition of the existing buildings or structures will take place between October 1 and April 30 to avoid the active season for bats. Should minor tree removal be required between May 1 and September 30, a qualified professional will complete an exit survey of suitable maternal roosting sites identified for removal a maximum of 24 hours before removal. The exit survey must make use of a bat detector and will occur for no less than the time period between sunset and 60 minutes after sunset. If an Endangered bat is identified during the survey, Ministry of the Environment, Conservation and Parks (MECP) should be contacted to obtain further direction prior to removal of the tree.
- d) If construction activities occur during the active bat season (i.e., May 1 and September 30), work will be restricted to daylight hours only and the use of artificial lighting will be avoided.
- e) Any lighting incorporated into the final building designs should be directed downward (i.e., towards the ground) and/or away from the adjacent woodlot (i.e., directed eastward) to the extent practicable.

- f) The removal of trees will be restricted to areas in direct conflict with the footprints of the proposed development features (e.g., residence, septic system, driveway, etc.) and grading, along with any hazardous trees in the immediate vicinity that pose an unacceptable risk to human life or property.
- g) All necessary vegetation removal will be completed outside the primary bird nesting period (i.e., to be completed between September 1 and March 31). Should minor vegetation removal be proposed during the bird nesting period, a bird nesting survey will be undertaken to confirm the presence or absence of nesting birds or bird nests within or adjacent to the areas subject to vegetation clearance. The survey is to take place within 48 hours of vegetation removal.
- h) Incorporation of Bird-Friendly Guidelines into the residence design such as those published in City of Toronto's "Best Practices for Bird-Friendly Glass" and "Best Practices for Effective Lighting" should be considered at detailed design.
- i) Any Landscape Plans prepared as part of the development approval should incorporate species native to the local landscape.
- j) That a light duty silt fence be installed at the limit of any excavation and grading to delineate the work area and help minimize impacts (e.g., sedimentation and accidental encroachment) to adjacent vegetation and that the silt fence be properly embedded (as per Ontario Provincial Standard Specification 805) into the ground to reduce any offsite movement of silt. The silt fence used should be one that does not include a mesh component, to avoid risk of entanglement of wildlife.
- k) That the contractor has a spill kit on site to minimize potential contamination from accidental spills. The equipment should be inspected for leaks and refueling be completed in accordance with best management practices and at least 30 m away from the woodland.
- l) That continuous, permanent fencing be installed along the rear property line, adjacent to the Significant Woodland, to delineate property boundaries to limit potential encroachment into the woodland.

Consent Files: B4-2024P & B5-2024P - Part 4

That the landowner enters a Development Agreement with the Town of Pelham for Part 4, to be registered on title, which requires that the owner implement the recommendations of the Environmental Impact Study (prepared by Terrastory Ecological Consulting Inc., dated November 29, 2023), including but not limited to:

- a) That a Woodland Enhancement Plan be prepared, to the satisfaction of Niagara Region, for the area indicated on Figure 3 of the EIS. The Plan shall consist of a diversity of native tree and shrub plantings and incorporate wildlife habitat enhancement elements. Plantings of Pignut Hickory shall be incorporated into the Woodland Enhancement Plan
- b) That a Tree Preservation Plan (TPP) be prepared, to the satisfaction of Niagara Region, that indicates any trees that need to be removed to allow for the

development of Part 4. The TPP should be prepared in accordance with the Region's Woodland Conservation By-law (By-law 20-79).

- c) That the development agreement contain wording wherein the owner agrees to implement the approved Tree Preservation Plan and Woodland Enhancement Plan, prior to construction.
- d) That tree protection fencing be installed surrounding the Eastern Flowering Dogwood at the time of construction to avoid incidental mechanical damage to the trunk, branches, or roots.
- e) Any necessary tree removal and demolition of the existing buildings or structure will take place between October 1 and April 30 to avoid the active season for bats. Should minor tree removal be required between May 1 and September 30, a qualified professional will complete an exit survey of suitable maternal roosting sites identified for removal a maximum of 24 hours before removal. The exit survey must make use of a bat detector and will occur for no less than the time period between sunset and 60 minutes after sunset. If an Endangered bat is identified during the survey, Ministry of the Environment, Conservation and Parks (MECP) should be contacted to obtain further direction prior to removal of the tree.
- f) If construction activities occur during the active bat season (i.e., May 1 and September 30), work will be restricted to daylight hours only and the use of artificial lighting will be avoided.
- g) The removal of trees will be restricted to areas in direct conflict with the footprints of the proposed development features (e.g., residence, septic system, driveway, etc.) and grading, along with any hazardous trees in the immediate vicinity that pose an unacceptable risk to human life or property.
- h) All necessary vegetation removal will be completed outside the primary bird nesting period (i.e., to be completed between September 1 and March 31). Should minor vegetation removal be proposed during the bird nesting period, a bird nesting survey will be undertaken to confirm the presence or absence of nesting birds or bird nests within or adjacent to the areas subject to vegetation clearance. The survey is to take place within 48 hours of vegetation removal.
- i) Any Landscape Plans prepared as part of the development approval should incorporate species native to the local landscape.
- j) That a light duty silt fence be installed at the limit of any excavation and grading to delineate the work area and help minimize impacts (e.g., sedimentation and accidental encroachment) to adjacent vegetation and that the silt fence be properly embedded (as per Ontario Provincial Standard Specification 805) into the ground to reduce any offsite movement of silt. The silt fence used should be one that does not include a mesh component, to avoid risk of entanglement of wildlife.
- k) That the contractor has a spill kit on site to minimize potential contamination from accidental spills. The equipment should be inspected for leaks and refueling be completed in accordance with best management practices and at least 30 m away from the woodland.

Consent Files: B4-2024P & B5-2024P

That the following archaeological advisory clause be inserted in the Development Agreement between the landowner and Town of Pelham:

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 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.

Sarah Leach

Subject: RE: NPCA comments regarding 201 Canboro Road Applications for April 02, 2024

From: Meghan Birbeck
Sent: Monday, March 4, 2024 4:30 PM
To: Andrew Edwards <AEwards@pelham.ca>
Cc: Shannon Larocque <SLarocque@pelham.ca>
Subject: NPCA comments regarding 201 Canboro Road Applications for April 02, 2024

Good afternoon Andrew,

Thank you so much for circulating the revised Plans (Severance Sketch dated February 16, 2024 by Kirkup Mascoe Ure Surveying and Severance Concept dated February 23, 2024 by Upper Canda Consultants) and Report (Supplemental Slope Stability Considerations dated February 22, 2024 by Soil-Mat Engineers) for the consent application at 201 Canboro Rd.

Technical staff have had a review of the reviewed material and are satisfied that NPCA comments have been addressed.

As such, the NPCA can support the severance application.

Please note that any proposed development will require NPCA approval and possible work permits.

Best,
Meghan



Meghan Birbeck (MS)
Watershed Planner

Niagara Peninsula Conservation Authority (NPCA)
250 Thorold Road West, 3rd Floor | Welland, ON L3C 3W2

905.788.3135 Ext 278
www.npca.ca
mbirbeck@npca.ca



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

Tuesday, April 02, 2024

Minor Variance Application: A7-2024P

Municipal Address: 201 Canboro Road

Legal Description: Part Lot 4, Concession 8 as in R0685205 (Part 2 on Sketch)

Roll number: 2732 020 010 10500

Nature and Extent of Relief/ Permission Applied for:

The subject parcel, shown as Part 2 on the attached sketch, has a frontage of 13.66m on the north side of Canboro Road, lying south of Highway 20 being Part Lot 4, Concession 8 in the Town of Pelham.

The subject land is zoned Residential 2 (R2) in accordance with Pelham Zoning By-law 4481 (2022), as amended. Application is made to construct a semi-detached dwelling, and seeks relief from:

1. **Section 6.2.3** – requesting a minimum rear yard setback of 4.5 metres whereas a minimum rear yard setback of 7.5 metres is required.

This application is being considered concurrently with Consent Files B4-2024P and B5-2024P, and minor variance application A6-2024P.

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.

Section 3 of the *Planning Act* requires that decisions affecting planning matters “shall be consistent with” policy statements issued under the Act. The PPS recognizes the diversity of Ontario and that local context is important. Policies are outcome-oriented, and some policies provide flexibility provided that provincial interests are upheld. PPS policies represent minimum standards.

The subject land is located in a ‘Settlement Area’ according to the PPS. Policy 1.1.3.1 states that settlement areas shall be the focus of growth and development.

Infill development is an acceptable form of *intensification* so long as new development is compatible in nature, is compact, and avoids adverse impacts to provincial interest, public health, safety and the quality of the human environment.

Planning staff are of the opinion the requested zoning relief is consistent with the PPS and promotes appropriate development standards that help facilitate compact form and *intensification*.

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 lands are located within the Delineated Built Boundary. Section 2.2.1 of the Growth Plan directs growth to settlement areas that have a delineated built boundary, have existing municipal services, and can support the achievement of complete communities. The Growth Plan states municipalities will support the achievement of complete communities by planning to accommodate forecasted growth, planning to achievement the minimum intensification and density targets of the Plan, considering the range and mix of housing options and densities of existing housing stock, and planning diversify overall housing stock.

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

Regional Official Plan (Adopted 2022)

The Region of Niagara adopted a new Regional Official Plan (ROP) on June 23, 2022. It was approved by the Province in November 2022. The subject lands are recognized as Built-Up Area in the Regional Official Plan.

Policy 2.3.1.4 provides that new residential development and residential intensification are encouraged to be planned and designed to mitigate and adapt to the impacts of climate change by:

- a) facilitating compact built form; and
- b) incorporating sustainable housing construction materials or practices, green infrastructure, energy conservation standards, water efficient technologies, and low impact development.

Planning staff are of the opinion the proposed variance conforms with the Regional Official Plan.

Town of Pelham Official Plan (2014)

The Town of Pelham Official Plan is the primary planning document that will direct the actions of the Town and shape growth that will support and emphasize Pelham's unique character, diversity, cultural heritage and protect natural heritage features.

The local Official Plan designates the subject land as 'Urban Living Area / Built Boundary.' Section B1.1.2 outlines the permitted uses and intentions of this designation, which are supportive of the development of lower density residential uses as part of a complete community.

Policy A2.2.2 Growth & Settlement – states that it is a goal of this Plan to encourage intensification and redevelopment within the *Urban Area* specifically in proximity to the Downtown. The proposal is seen as an appropriate form of intensification in the Urban Area.

Section B1.1 of the Official Plan provides the policy base of the Urban Living Area designation. Policy B1.1.1 recognizes the existing urban area of Fonthill and the role the Town will need to accommodate various forms of residential intensifications, where appropriate. The proposal is supported by the Town Official Plan policies that encourage infill within existing built-up areas. It is noted compatibility does not necessarily mean the same as, rather the ability to coexist together.

Policy E1.5 states that in addition to the Planning Act's four tests considered in determining whether to grant a minor variance, applicants should be prepared to demonstrate a need for the requested relief on the basis that the subject zoning provision is not warranted in a particular circumstance, causes undue hardship, or is otherwise impossible to comply with. The applicant provided a planning justification report along with the concurrently applications for consent.

Town Planning staff are of the opinion the proposed minor variance conforms to the local Official Plan as it helps enable appropriate redevelopment and *intensification* within an existing residential neighbourhood and does not conflict with any policies subject to the fulfillment of the proposed conditions of approval.

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

The subject lands are zoned Residential 2 (R2) per Town of Pelham Comprehensive Zoning By-law 4481. Single detached and semi-detached dwelling and accessory uses are permitted uses in the R2 zone. Under the regulations of the Zoning By-law, the minor variance application requests relief from:

- **Section 6.2.3 – Minimum Rear Yard** - requesting a minimum rear yard setback of 4.5 metres whereas a minimum rear yard setback of 7.5 metres is required.

The Committee of Adjustment, in accordance with Section 45 (1) of the *Planning Act*, may authorize a minor variance from the provisions of the by-law, subject to the following considerations:

Minor Variance Test	Test Response/Explanation
The variance is minor in nature.	<p>Section 6.2.3 – Minimum Rear Yard</p> <p>Yes, the variance is minor in nature.</p> <p>The impact of the reduction in the rear yard setback can be considered minor in this instance as functional private amenity area is still maintained on the site. Drainage concerns will be addressed through a lot grading and drainage plan that will ensure drainage is addressed on site and will not rely on neighbouring properties.</p> <p>As such, staff are of the opinion the variance is minor in nature.</p>
The variance is desirable for the development or use of the land.	<p>Section 6.2.3 – Minimum Rear Yard</p> <p>Yes, the variance is desirable for the development or use of the land.</p> <p>The requested variance is not anticipated to have a significant negative impact on the streetscape or adjacent properties. Staff note the proposed semi-detached dwelling is opposed to be sited further back from the slope than the existing single detached dwelling. The reduction to the rear yard setback in this instance is desirable as appropriate private amenity area will be maintained.</p> <p>As such, staff are of the opinion the variance is desirable for the development or use of the land.</p>
The variance maintains the general intent and purpose of the Zoning By-law.	<p>Section 6.2.3 – Minimum Rear Yard</p> <p>Yes, the variance maintains the general intent and purpose of the Zoning By-law.</p> <p>The intent of the rear yard setback is to ensure separation distance between abutting residential uses and to ensure there remains adequate amenity area for the lot in question. There remains an outdoor amenity area of approximately 81.5 m² to serve the proposed units.</p> <p>Further, the property backs on to lands zoned for Environmental Protection. There would appear to be ample separation to neighbouring land uses in terms of rear yard setback.</p>

	<p>The existing structures are currently on, or near, the edge of the top of slope and are closer to the Significant Woodland than the proposed semi-detached dwelling.</p> <p>With regards to the reduced rear yard, lot grading and drainage requirements are recommended as a condition of approval for the proposed development. A condition is being recommended that requires the proponent to prepare a grading and drainage plan to the satisfaction of the Director of Public Works that demonstrates that appropriate on-site drainage can occur without adversely impacting adjacent properties.</p> <p>As such, staff are of the opinion the variance maintains the general intent and purpose of the Zoning By-law.</p>
The variance maintains the general intent and purpose of the Official Plan.	<p>Section 6.2.3 – Minimum Rear Yard</p> <p>Yes, the variance maintains the general intent and purpose of the Official Plan.</p> <p>Staff are of the opinion that the requested variance is not considered to have significant impacts within the context of the Official Plan. The subject land's use is within the permitted use of the Urban Living Area / Built Boundary designation. The variance will facilitate appropriate redevelopment and intensification within an existing residential neighbourhood and does not conflict with any policies subject to demonstration of appropriate urban design and fulfillment of the proposed conditions of approval, including a lot grading and drainage plan.</p> <p>An Environmental Impact Study delineated the Significant Woodland feature. The proposed development is outside the natural heritage feature, and the dwellings are proposed with a setback of approximately 8m from the feature.</p> <p>As such, staff are of the opinion the variance maintains the general intent and purpose of the Official Plan.</p>

Agency and Public Comments:

On March 6, 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
 - Building permit approval is required for the proposed semi-detached dwelling.
- Public Works Department
 - Please be advised that no sideyard walkways that impede sideyard swales shall be permitted
 - Please note that the Town does not allow any service connections for Part 4 as it is not within the urban boundary.
- Niagara Region

- Refer to comments on consent applications.
- Niagara Peninsula Conservation Authority
 - Refer to comments on consent applications.

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

Planning Staff Comments:

Planning staff have reviewed the Planning Opinion Letter submitted by Upper Canada Consultants dated February 29, 2024, as well as reviewed all agency and public correspondence submitted to date.

Based on the analysis given in above sections, staff is of the opinion the proposal:

- makes efficient use of the land;
- will not result in overbuilding of the property;
- will not alter the view, sightlines or personal enjoyment of the subject property or any neighbouring properties; and,
- should not negatively impact the surrounding neighbourhood with regards to land use incompatibility, traffic, privacy, and storm water runoff.

The requested variance is minor in nature, conforms to the general policies and intent of both the Official Plan and Zoning By-law and is appropriate for the development and use of the land.

Planning Staff Recommendation:

Planning staff recommend that minor variance file A7/2024P **be approved** subject to the following condition(s):

THAT the applicant:

- That all necessary building and demolition permits be acquired prior to construction commencing, to the satisfaction of the Chief Building Official.
- 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, to the satisfaction of the Director of Public Works or his designate.
- That the approval of the minor variance is subject to Consent Files B4-2024P and B5-2024P obtaining final approval.

Prepared and Submitted by:

Andrew Edwards, BES
Planner

Recommended by:

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

**Engineering Department
Committee of Adjustment Report**

For

**A7-2024P
201 Canboro Road Part 2**

March 20, 2024

Town staff have reviewed the following documentation for the purpose of **A7-2024P – 201 Canboro Road Part 2** consent application for:

Application is made for consent to permit a reduction of the minimum rear yard setback from the required 7.5m for a semi-detached dwelling on Part 2,

to a minimum rear yard setback of 4.5m (Section 6.2.3 of Comprehensive Zoning By-law 4481 (2022)).

This application is being considered concurrently with Minor Variance File A6-2024P and A7-2024P and consent application B4-2024P and B5-2024P.

Introduction:

The subject parcel, shown as Part 1 on the attached sketch, has a frontage of 13.66m on the north side of Canboro Road, lying south of Highway 20 being Part Lot 4, Concession 8 in the Town of Pelham.

The purpose and effect of the application is to create two (2) new parcels for future residential use. The applications propose to sever two (2) parcels from the remnant parcel, resulting in a total of three (3) parcels on lands known municipally as 201 Canboro Road in the Town of Pelham. Three (3) single detached dwellings are currently present on the lands along with a detached garage. The most westerly dwelling is proposed to remain while the rest of the structures are proposed to be removed in order to accommodate the future dwellings.

Analysis:

Please see comments and conditions for B4-2024P and B5-2024P

Public Works offer the following comment and Conditions:

Please see comments and conditions for B4-2024P and B5-2024P

To: Sarah Leach

Cc: Andrew Edwards

From: Alex Foisey, Building Intake/Zoning Technician

Date: March 20th, 2024

Subject: Building Comments on Applications to the Committee of Adjustment for
201 Canboro Road – Part 2

File Number: A7-2024P

Comments:

Building Permit is required for proposed Semi-Detached Dwelling

Respectfully,
Alex Foisey

Growth Management and Planning Division

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

Via Email

March 19, 2024

Regional File: D.06.06.CS-23-0114, D.06.06.CS-23-0115

Sarah Leach
Deputy Clerk/Secretary-Treasurer
Town of Pelham
20 Pelham Town Square, P.O. Box 400
Fonthill, ON L0S 1E0

Dear Ms. Leach:

**Re: Regional and Provincial Review Comments
Consent Applications
Town File: B4-2024P, B5-2024P, A6-2024P & A7-2024P
Owner: [REDACTED]
Agent/Applicant: [REDACTED]
201 Canboro Road
Town of Pelham**

Regional Growth Management and Planning Division staff has reviewed the materials circulated with the two Consent applications for the lands located at 201 Canboro Road in the Town of Pelham ("subject lands").

The applicant is proposing consent to partial discharge of mortgage and consent to convey 404 sq. m of land ("Part 1") and 401 sq. m. of land ("Part 2") for future construction of semi-detached dwellings. The lands referred to as "Part 3" are to be dedicated to the Town of Pelham for a road widening. The remaining land ("Part 4") is to be retained for continued residential use.

A pre-consultation meeting for the applications was held on March 17, 2022. Staff provided comments on the initial submission of the application in a letter dated December 21, 2023. At this time staff were unable to support the application due to concerns relating to the septic system requirements, and the application was deferred.

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

Provincial and Regional Policies

The subject lands are located partially within the Settlement Area (Part 1 and 2 and the northeastern portion of Part 4 ("remnant parcel") and partially within the Prime Agricultural Area (and more specifically the Speciality Crop Area) (the remaining lands of Part 4) under the *Provincial Policy Statement, 2020* (PPS). A majority of the property is located within the Protected Countryside – Niagara Tender Fruit and Grape Area - within the *Greenbelt Plan, 2017* ("Greenbelt Plan"). The lands are designated in part as Delineated Built-Up Area (Part 1 and 2

and the northeastern portion of the remnant parcel) and in part as Specialty Crop Area (remaining lands of the remnant parcel) within the *Niagara Official Plan, 2022* ("NOP"). Staff acknowledge that the applications for Consent are confined to the Settlement Area/Delineated Built-Up Area, where population growth will be accommodated primarily through intensification, and that no new lots or development are proposed in the Specialty Crop Area.

Regional staff has reviewed the *Planning Brief* prepared by Upper Canada Consultants (no date). Staff acknowledge that the lands proposed to be severed are located entirely within the Urban/Settlement Area and, therefore, the proposal does not result in the creation of an additional new residential lot within the agricultural land base. Further, the Brief notes that the proposed residential development (semi-detached dwelling) would expand the range of available housing options and increase the housing supply, which is consistent with Provincial and Regional policies. The Brief references the Environmental Impact Study ("EIS") completed for the subject property, which identifies and assesses the proposals impact on the natural heritage features on the subject property (see the 'Natural Environment System' section below).

Overall, staff is satisfied with the analysis provided in the Planning Brief and have no further comments from a planning perspective.

Archaeological Resources

The subject property falls within the 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.

Staff has reviewed the *Stage 1-2 Archaeological Assessment* prepared by Detritus Consulting Ltd. (dated November 7, 2022). Based on recommendations from the Town, the assessment was limited to the lands subject to development and ground disturbance ("study area"), which makes up 0.37 ha of the 0.88 ha lot. The Stage 1 assessment identified six archaeological sites within a 1 kilometre radius of the study area. The assessments indicates that there is land disturbance from the existing buildings/structure on the property, which may eradicate archaeological potential. It was recommended that these areas be subject to a Stage 2 field assessment to confirm and document the degree and extent of disturbance.

The Stage 2 field assessment was conducted on August 25, 2022 which included test pit surveying of the treed area, side and backyards, manicured front yard, and greenspace behind the residential properties. The test pit survey was conducted within 1 metre of the building structures or until test pits showed evidence of recent ground disturbance. The field assessment concluded that the lands were free and clear of archaeological resources and that no further archaeological assessment was recommended.

Staff received a copy of the acknowledgement/acceptance letter from the Ministry of Citizenship and Multiculturalism (dated October 16, 2023).

Recognizing that no archaeological survey, regardless of its intensity, can entirely negate the possibility of deeply buried archaeological materials, Regional staff recommend the inclusion of the following standard archaeological clauses in the development agreement relating to deeply buried archaeological materials that may be encountered during grading and construction activities:

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 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.

Regional staff advise that any future development outside of the study area will require a separate Stage 1-2 archaeological assessment.

Natural Environment System

As previously noted, a pre-consultation meeting for the proposal was held on March 17, 2022 prior to the approval of the NOP by the Minister of Municipal Affairs and Housing on November 4, 2022. Policy 3.1.30.3.1 of the NOP states that, where a formal pre-consultation meeting has been completed within one (1) year of the approval of the NOP, and environmental requirements have been established through a signed pre-consultation agreement that has not expired, required environmental studies may be evaluated in accordance with the Regional policies that existed at the time the pre-consultation meeting was completed (provided the application is submitted within two years of the approval of the NOP). Accordingly, the environmental policies of the previous *Regional Official Plan, 2014* ("ROP") apply to the proposal.

Under the ROP, the subject lands are impacted by the Region's Core Natural Heritage System ("CNHS"), consisting of Significant Woodland, Significant Valleyland and a watercourse associated with Coyle Creek. As such, consistent with ROP policy 7.B.1.11, an Environmental Impact Study ("EIS") was requested in support of site alteration and/or development proposed adjacent to CNHS features to demonstrate that there will be no significant negative impact on the features or their ecological/hydrological function.

Regional staff reviewed the *Environmental Impact Study*, prepared by Terrastory Ecological Consulting Inc. (dated November 29, 2023), which confirms the presence of Significant Woodland, Significant Valleyland and the tributary of Coyle Creek. In addition, through the completion of ecological studies, the EIS identifies that the wooded valleyland contains Significant Wildlife Habitat associated with a Provincially Rare tree species (Pignut Hickory), Special Concern bird species (Eastern Wood-pewee) and significant Deer Wintering Area. Further, an Eastern Flowering Dogwood (endangered tree species) was identified within the manicured amenity space in front of the existing residence, while candidate Endangered Bat habitat is associated with the wooded valleyland.

The subject lands are currently developed with existing buildings and structures that extend into the valleyland/woodland. The EIS indicates that through this application, three of the existing residential buildings will be demolished, as well as the existing septic system for the

westernmost residence on the retained parcel. All new development (including lot lines) is proposed outside of the approved valleyland top of bank and Significant Woodland dripline. The Eastern Flowering Dogwood is proposed to be protected during demolition of the existing residence with tree protection fencing. Implementation of a Woodland Enhancement Plan is recommended in the EIS to enhance the ecological functions of the woodland/valleyland beyond existing conditions (i.e., achieve a net ecological benefit). A component of the Woodland Enhancement Plan includes restoring the open meadow area that occurs within the valleyland.

Staff is satisfied with the characterization of the subject lands. Provided the recommendations and mitigation strategy outlined in the EIS are implemented, the Region is satisfied that the ROP's policy test of 'no significant negative impact' to the CNHS has been achieved.

That said, the CNHS feature that has been characterized as high-functioning and the 0 metre setback is not sufficient to meet the 'no negative impact' test of the PPS. As such, the Region recommends the buffer width adjacent to the woodland/valleyland be maximized to extent possible to ensure no negative impacts to the adjacent woodland and valleyland. Staff, therefore, recommend that an updated Consent sketch be provided to the Region and Town for review that is consistent with and satisfactorily addresses the PPS test. Should the proposed lot fabric be deemed appropriate by the Committee, recommended conditions of approval relating to each proposed new lot are provided in the attached Appendix I to ensure EIS recommendations and mitigation measures are implemented.

Municipal Servicing – Proposed Lots (Parts 1 and 2)

The proposed two new lots are within the urban area; therefore, it is assumed they will be serviced by municipal servicing. The extension of the low pressure system will be under the jurisdiction and approval by the Town of Pelham. If there are any crossings of the Regional watermain detailed drawings are to be provided to the Region for review and approval prior to approval by the Town.

The only watermain available is a Regional hybrid watermain. The Region will require that detailed engineering plans be provided for the proposed water servicing for the two new lots. A Regional connection permit will be required for connections to the watermain. To obtain the connection permit a letter from the Town, detailed engineering drawings and a fee of \$1,250 will need to be provided to the Niagara Region (to the attention of Susan Dunsmore, P. Eng. Manager of Development Engineering at 905-980-6000 ext. 3661). Please be advised that connection permits are only valid for a period of one year.

Private Servicing – Retained Lot (Part 4)

Regional Private Sewage System staff conducted an on-site inspection on December 21, 2023. The property currently contains three dwellings that are privately serviced by sewage systems to the north. The existing septic tanks are located north of the dwellings and are to be decommissioned prior to the connection to municipal sewers or demolition. Staff advise that a tank decommissioning application issued by the Niagara Region will be required prior to demolition of the existing dwellings.

Staff received additional information indicating that the retained parcel has a replacement sewage system area. A percolation test was completed on-site which concluded an inground sewage system could be installed on the property in the future. No defects were observed with the system at the time of inspection; however, this system is considered legal non-conforming

March 19, 2024

as it contains a single chamber tank, and the bed is located in a steep slope. Any future changes to the dwelling which increase sewage flows would require a new sewage system in the replacement area to be installed. Staff note that all trees and driveway surfaces will need to be removed to ensure that the minimum building code setback area is achieved as per the Ontario Building Code (O. Reg. 332/12). The setbacks include 1.5 m from the septic tank to a structure and 5 m from the septic bed to a structure (driveway).

Therefore, Regional staff has no objection to the applications from a private servicing perspective, provided the two existing septic tanks are properly decommissioned and tank decommissioning applications are submitted to the Region.

Waste Collection

- Blue/grey –no limit (weekly)
- Green – no limit (weekly)
- Waste – 2 bag/can limit per lot (bi-weekly)
- **Curbside collection only**

Circular Materials Ontario is responsible for the delivery of residential Blue / Grey Box recycling collection services currently administered by Niagara Region. The most up to date information can be found using the following link: <https://www.circularmaterials.ca/resident-communities/niagara-region/>

Regional Bicycle Network

The subject property has frontage on Canboro Road, which is designated as part of the Regional Niagara Bicycling Network. If the bicycle routes are currently not established and identified with signage, it is the intent of the Region to make provisions for doing so when an appropriate opportunity arises. This may involve additional pavement width, elimination of on-street parking, etc.

Conclusion

Regional Growth Management and Planning Division staff has determined that the applications are consistent with the *Provincial Policy Statement* and in conformity with Provincial and Regional plans. As such, staff offer no objection to the applications, provided the two existing septic tanks are properly decommissioned and tank decommissioning applications are submitted to the Region.

The required connection permits for connection to the Regional watermain must be applied for, including the submission of detailed plan and profile drawings.

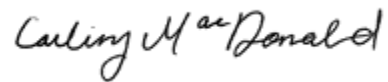
Preliminary conditions of approval are provided in the attached Appendix I for information with respect to implementation of the Environmental Impact Study recommendations and mitigation measures and archaeological advisory clauses.

Please contact the undersigned at Carling.MacDonald@niagararegion.ca or Pat Busnello at Pat.Busnello@niagararegion.ca should you have any questions related to the above comments.

Please send the Notice of Committee's Decision on these Applications when available.

March 19, 2024

Best Regards,

A handwritten signature in cursive script that reads "Carling MacDonald".

Carling MacDonald

Development Planner, Niagara Region

cc. Pat Busnello, MCIP, RPP, Manager of Development Planning, Niagara Region
Susan Dunsmore, P.Eng., Manager of Development Engineering, Niagara Region
Caitlin Goodale, Private Sewage System Inspector, Niagara Region
Adam Boudens, MSc, Senior Environmental Planner, Niagara Region

Appendix I

Preliminary Conditions of Approval

Consent File: B4-2024P - Part 1

That the landowner enters a Development Agreement with the Town of Pelham for Part 1, to be registered on title, which requires that the owner implement the recommendations of the Environmental Impact Study (prepared by Terrastory Ecological Consulting Inc., dated November 29, 2023), including but not limited to:

- a) That a Tree Preservation Plan (TPP) be prepared, to the satisfaction of Niagara Region, that indicates any trees that need to be removed to allow for the development of Part 1. The TPP should be prepared in accordance with the Region's Woodland Conservation By-law (By-law 20-79).
- b) That the development agreement contain wording wherein the owner agrees to implement the approved Tree Preservation Plan, prior to construction.
- c) Any necessary tree removal and demolition of the existing buildings or structures will take place between October 1 and April 30 to avoid the active season for bats. Should minor tree removal be required between May 1 and September 30, a qualified professional will complete an exit survey of suitable maternal roosting sites identified for removal a maximum of 24 hours before removal. The exit survey must make use of a bat detector and will occur for no less than the time period between sunset and 60 minutes after sunset. If an Endangered bat is identified during the survey, Ministry of the Environment, Conservation and Parks (MECP) should be contacted to obtain further direction prior to removal of the tree.
- d) If construction activities occur during the active bat season (i.e., May 1 and September 30), work will be restricted to daylight hours only and the use of artificial lighting will be avoided.
- e) Any lighting incorporated into the final building designs should be directed downward (i.e., towards the ground) and/or away from the adjacent woodlot (i.e., directed eastward) to the extent practicable.
- f) The removal of trees will be restricted to areas in direct conflict with the footprints of the proposed development features (e.g., residence, septic system, driveway, etc.) and grading, along with any hazardous trees in the immediate vicinity that pose an unacceptable risk to human life or property.
- g) All necessary vegetation removal will be completed outside the primary bird nesting period (i.e., to be completed between September 1 and March 31). Should minor vegetation removal be proposed during the bird nesting period, a bird nesting survey will be undertaken to confirm the presence or absence of nesting birds or bird nests within or adjacent to the areas subject to vegetation clearance. The survey is to take place within 48 hours of vegetation removal.
- h) Incorporation of Bird-Friendly Guidelines into the residence design such as those published in City of Toronto's "Best Practices for Bird-Friendly Glass" and "Best Practices for Effective Lighting" should be considered at detailed design.

- i) Any Landscape Plans prepared as part of the development approval should incorporate species native to the local landscape.
- j) That a light duty silt fence be installed at the limit of any excavation and grading to delineate the work area and help minimize impacts (e.g., sedimentation and accidental encroachment) to adjacent vegetation and that the silt fence be properly embedded (as per Ontario Provincial Standard Specification 805) into the ground to reduce any offsite movement of silt. The silt fence used should be one that does not include a mesh component, to avoid risk of entanglement of wildlife.
- k) That the contractor has a spill kit on site to minimize potential contamination from accidental spills. The equipment should be inspected for leaks and refueling be completed in accordance with best management practices and at least 30 m away from the woodland.
- l) That continuous, permanent fencing be installed along the rear property line, adjacent to the Significant Woodland, to delineate property boundaries to limit potential encroachment into the woodland.

Consent File: B5-2024P - Part 2

That the landowner enters a Development Agreement with the Town of Pelham for Part 2, to be registered on title, which requires that the owner implement the recommendations of the Environmental Impact Study (prepared by Terrastory Ecological Consulting Inc., dated November 29, 2023), including but not limited to:

- a) That a Tree Preservation Plan (TPP) be prepared, to the satisfaction of Niagara Region, that indicates any trees that need to be removed to allow for the development of Part 2. The TPP should be prepared in accordance with the Region's Woodland Conservation By-law (By-law 20-79).
- b) That the development agreement contain wording wherein the owner agrees to implement the approved Tree Preservation Plan, prior to construction.
- c) Any necessary tree removal and demolition of the existing buildings or structures will take place between October 1 and April 30 to avoid the active season for bats. Should minor tree removal be required between May 1 and September 30, a qualified professional will complete an exit survey of suitable maternal roosting sites identified for removal a maximum of 24 hours before removal. The exit survey must make use of a bat detector and will occur for no less than the time period between sunset and 60 minutes after sunset. If an Endangered bat is identified during the survey, Ministry of the Environment, Conservation and Parks (MECP) should be contacted to obtain further direction prior to removal of the tree.
- d) If construction activities occur during the active bat season (i.e., May 1 and September 30), work will be restricted to daylight hours only and the use of artificial lighting will be avoided.
- e) Any lighting incorporated into the final building designs should be directed downward (i.e., towards the ground) and/or away from the adjacent woodlot (i.e., directed eastward) to the extent practicable.

- f) The removal of trees will be restricted to areas in direct conflict with the footprints of the proposed development features (e.g., residence, septic system, driveway, etc.) and grading, along with any hazardous trees in the immediate vicinity that pose an unacceptable risk to human life or property.
- g) All necessary vegetation removal will be completed outside the primary bird nesting period (i.e., to be completed between September 1 and March 31). Should minor vegetation removal be proposed during the bird nesting period, a bird nesting survey will be undertaken to confirm the presence or absence of nesting birds or bird nests within or adjacent to the areas subject to vegetation clearance. The survey is to take place within 48 hours of vegetation removal.
- h) Incorporation of Bird-Friendly Guidelines into the residence design such as those published in City of Toronto's "Best Practices for Bird-Friendly Glass" and "Best Practices for Effective Lighting" should be considered at detailed design.
- i) Any Landscape Plans prepared as part of the development approval should incorporate species native to the local landscape.
- j) That a light duty silt fence be installed at the limit of any excavation and grading to delineate the work area and help minimize impacts (e.g., sedimentation and accidental encroachment) to adjacent vegetation and that the silt fence be properly embedded (as per Ontario Provincial Standard Specification 805) into the ground to reduce any offsite movement of silt. The silt fence used should be one that does not include a mesh component, to avoid risk of entanglement of wildlife.
- k) That the contractor has a spill kit on site to minimize potential contamination from accidental spills. The equipment should be inspected for leaks and refueling be completed in accordance with best management practices and at least 30 m away from the woodland.
- l) That continuous, permanent fencing be installed along the rear property line, adjacent to the Significant Woodland, to delineate property boundaries to limit potential encroachment into the woodland.

Consent Files: B4-2024P & B5-2024P - Part 4

That the landowner enters a Development Agreement with the Town of Pelham for Part 4, to be registered on title, which requires that the owner implement the recommendations of the Environmental Impact Study (prepared by Terrastory Ecological Consulting Inc., dated November 29, 2023), including but not limited to:

- a) That a Woodland Enhancement Plan be prepared, to the satisfaction of Niagara Region, for the area indicated on Figure 3 of the EIS. The Plan shall consist of a diversity of native tree and shrub plantings and incorporate wildlife habitat enhancement elements. Plantings of Pignut Hickory shall be incorporated into the Woodland Enhancement Plan
- b) That a Tree Preservation Plan (TPP) be prepared, to the satisfaction of Niagara Region, that indicates any trees that need to be removed to allow for the

development of Part 4. The TPP should be prepared in accordance with the Region's Woodland Conservation By-law (By-law 20-79).

- c) That the development agreement contain wording wherein the owner agrees to implement the approved Tree Preservation Plan and Woodland Enhancement Plan, prior to construction.
- d) That tree protection fencing be installed surrounding the Eastern Flowering Dogwood at the time of construction to avoid incidental mechanical damage to the trunk, branches, or roots.
- e) Any necessary tree removal and demolition of the existing buildings or structure will take place between October 1 and April 30 to avoid the active season for bats. Should minor tree removal be required between May 1 and September 30, a qualified professional will complete an exit survey of suitable maternal roosting sites identified for removal a maximum of 24 hours before removal. The exit survey must make use of a bat detector and will occur for no less than the time period between sunset and 60 minutes after sunset. If an Endangered bat is identified during the survey, Ministry of the Environment, Conservation and Parks (MECP) should be contacted to obtain further direction prior to removal of the tree.
- f) If construction activities occur during the active bat season (i.e., May 1 and September 30), work will be restricted to daylight hours only and the use of artificial lighting will be avoided.
- g) The removal of trees will be restricted to areas in direct conflict with the footprints of the proposed development features (e.g., residence, septic system, driveway, etc.) and grading, along with any hazardous trees in the immediate vicinity that pose an unacceptable risk to human life or property.
- h) All necessary vegetation removal will be completed outside the primary bird nesting period (i.e., to be completed between September 1 and March 31). Should minor vegetation removal be proposed during the bird nesting period, a bird nesting survey will be undertaken to confirm the presence or absence of nesting birds or bird nests within or adjacent to the areas subject to vegetation clearance. The survey is to take place within 48 hours of vegetation removal.
- i) Any Landscape Plans prepared as part of the development approval should incorporate species native to the local landscape.
- j) That a light duty silt fence be installed at the limit of any excavation and grading to delineate the work area and help minimize impacts (e.g., sedimentation and accidental encroachment) to adjacent vegetation and that the silt fence be properly embedded (as per Ontario Provincial Standard Specification 805) into the ground to reduce any offsite movement of silt. The silt fence used should be one that does not include a mesh component, to avoid risk of entanglement of wildlife.
- k) That the contractor has a spill kit on site to minimize potential contamination from accidental spills. The equipment should be inspected for leaks and refueling be completed in accordance with best management practices and at least 30 m away from the woodland.

Consent Files: B4-2024P & B5-2024P

That the following archaeological advisory clause be inserted in the Development Agreement between the landowner and Town of Pelham:

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 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.

Sarah Leach

Subject: RE: NPCA comments regarding 201 Canboro Road Applications for April 02, 2024

From: Meghan Birbeck
Sent: Monday, March 4, 2024 4:30 PM
To: Andrew Edwards <AEwards@pelham.ca>
Cc: Shannon Larocque <SLarocque@pelham.ca>
Subject: NPCA comments regarding 201 Canboro Road Applications for April 02, 2024

Good afternoon Andrew,

Thank you so much for circulating the revised Plans (Severance Sketch dated February 16, 2024 by Kirkup Mascoe Ure Surveying and Severance Concept dated February 23, 2024 by Upper Canda Consultants) and Report (Supplemental Slope Stability Considerations dated February 22, 2024 by Soil-Mat Engineers) for the consent application at 201 Canboro Rd.

Technical staff have had a review of the reviewed material and are satisfied that NPCA comments have been addressed.

As such, the NPCA can support the severance application.

Please note that any proposed development will require NPCA approval and possible work permits.

Best,
Meghan



Meghan Birbeck (MS)
Watershed Planner

Niagara Peninsula Conservation Authority (NPCA)
250 Thorold Road West, 3rd Floor | Welland, ON L3C 3W2

905.788.3135 Ext 278
www.npca.ca
mbirbeck@npca.ca

Committee of Adjustment**Minutes**

Meeting #: CofA 01/2024
Date: Monday, January 8, 2024
Time: 4:00 pm
Location: Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

Members Present Brenda Stan
Colin McCann
Isaiah Banach

Members Absent Don Rodbard
John Cappa

Staff Present Sarah Leach
Andrew Edwards
Derek Young
Jodi Legros

1. Attendance

Applicants, Agents and viewing members of the public via hybrid in-person and live-stream through the Town of Pelham YouTube Channel.

2. Call to Order, Declaration of Quorum and Introduction of Committee and Staff

Noting that a quorum was present, Chair Banach called the meeting to order at approximately 4:00 pm. The Chair read the opening remarks to inform those present on the meeting protocols and he introduced the hearing panel and members of staff present.

3. Land Recognition Statement

Ms. Sarah Leach, Secretary-Treasurer, recited the land recognition statement.

4. Approval of Agenda

Moved By Colin McCann
Seconded By Brenda Stan

THAT the agenda for the January 8, 2024, Committee of Adjustment meeting be adopted, as circulated.

Carried

5. Disclosure of Pecuniary Interest and General Nature Thereof

There were no pecuniary interests disclosed by any of the members present.

6. Requests for Withdrawal or Adjournment

On behalf of the applicant(s) of consent files B4-2024P, B5-2024P, and B6/2024P, Mr. William Heikoop of Upper Canada Consultants requested a deferral until such a time the applicant(s) can satisfy the agency's comments.

The Committee agreed to all requests.

Moved By Colin McCann
Seconded By Brenda Stan

THAT the Committee grant deferral of consent files B4-2024P, B5-2024P, and B6/2024P until a time determined by the applicant(s).

Carried

7. Applications for Minor Variance

8. Applications for Consent

8.1 B1-2024P - 1039 Church Street

Purpose of the Application

Application is made for consent to convey 434.74 square metres of land (Part 2), for future construction of a single detached dwelling. Part 1 is to be retained for future residential development.

Representation

The Agent, Eric Potts of Quartek Group and the Applicant, Lucas Lucchetta were present.

Correspondence Received

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Hydro One

Applicants Comments

Mr. Eric Potts, Agent, provided a summary of the application. Mr. Potts stated the purpose of the application is to provide intensification while remaining synonymous with the surrounding neighborhood. Mr. Potts indicated no objection to the proposed conditions. He further indicated that a conductor line may run through the property and noted the applicant would be willing to have it relocated as per the Public Works condition.

Public Comments

Ms. Leach, Secretary-Treasurer indicated she checked the clerks@pelham.ca email address at 4:13 pm and confirmed no e-mails have been received concerning the subject application. Ms. Leach indicated the public comment portion of the application could be closed. The Committee agreed to close the public portion of the meeting and deliberate.

Moved By Brenda Stan

Seconded By Colin McCann

THAT the public portion of the meeting be closed.

Carried

Member Comments

The Members offered no comments or concerns.

Moved By Brenda Stan

Seconded By Colin McCann

THAT Application B1-2024P made for consent to convey 434.74 square metres of land (Part 2), for future construction of a single detached dwelling, is hereby: GRANTED;

The above decision is subject to the following conditions:

To the Satisfaction of the Director of Public Works

- 1. Construction of new or modification of existing driveways requires a Driveway Entrance Permit. This permit is obtained through the Public Works Department. All associated costs with this permit are the responsibility of the owner.**
- 2. That the applicant confirm that no existing utilities currently cross the proposed new property line. Should any services cross this new property line, the applicant will be responsible for costs associated with their relocation and/or removal.**
- 3. That the applicant submit an overall lot grading and drainage plan to demonstrate that the drainage does not negatively impact nor rely on neighboring properties**
- 4. That Part 2 be individually serviced with its own sanitary and water connections and constructed in accordance with Town of Pelham Engineering Standards. Installation of any services will require a Temporary Works Permit obtained through the Public Works Department. These works are to be completed prior to consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete. Servicing must be completed prior to final paving of the Church Street.**

To the Satisfaction of the Secretary-Treasurer

- 1. 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.**
- 2. That the final certification fee of \$436, 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.**

This decision is based on the following reasons:

- 1. The application conforms to the policies of the Town of Pelham Official Plan, Regional Policy Plan and Provincial**

Policy Statement, and complies with the Town's Zoning By-law.

- 2. This Decision is rendered having regard to the provisions of Sections 51(24) and 51(25) of the Planning Act, R.S.O., as amended.**
- 3. The Committee of Adjustment considered all written and oral submissions and finds that, subject to the conditions of provisional consent, this application meets Planning Act criteria, is consistent with the Provincial Policy Statement and complies with the Growth Plan, the Niagara Region Official Plan and the Town Official Plan.**
- 4. The applicant is aware and understands that servicing must be completed prior to the final paving of Church Street from Foss Road to Canboro Road.**

Carried

8.2 B2-2024P - 1171 Maple Street - Part 1

File B2-2024P was heard concurrently with file B3-2024P.

Purpose of the Application

Application B2-2024P is made for consent to convey 572 square metres of land (Part 1), for future construction of a semi-detached dwelling. Part 3 is to be retained for continued residential use of the dwelling known municipally as 1171 Maple Street.

Application B3-2024P is made for consent to convey 572 square metres of land (Part 2), for future construction of a semi-detached dwelling. Part 3 is to be retained for continued residential use of the dwelling known municipally as 1171 Maple Street.

Representation

The Agent, Ms. William Heikoop of Upper Canada Consultants, and the Applicant, Lawrence Veerman were present.

Correspondence Received

1. Town of Pelham Planning
2. Town of Pelham Public Works

3. Town of Pelham Building
4. Hydro One

Applicants Comments

Mr. William Heikoop, Agent, provided a brief presentation to explain the applications. A copy is available through the Secretary-Treasurer.

The Chair expressed the application was appropriate, a good source of intensification, and made sense about the surrounding community.

The Chair asked for clarification regarding the proposed amended language to the Public Works force main condition. Mr. Heikoop indicated that ECA approval requires municipal ownership which prompted the language change. Mr. Heikoop stated the force main will be constructed by the applicant at their expense. He further stated the construction, installation, and maintenance period will be embedded in the development agreement. Mr. Heikoop explained the condition is meant as an interim solution that allows development to move forward. He referenced a future project that would allow the force main to hook into a gravity sewer at an appropriate time.

The Chair asked the Region's role. Mr. Heikoop discussed the Region's servicing strategy and the characteristics of a municipal servicing agreement. Mr. Young indicated that the future pumping station and force main will be owned by the Region.

Public Comments

Ms. Leach, Secretary-Treasurer indicated she checked the clerks@pelham.ca email address at 4:32 pm and confirmed no e-mails have been received concerning the subject application. Ms. Leach indicated the public comment portion of the application could be closed. The Committee agreed to close the public portion of the meeting and deliberate.

Moved By Colin McCann

Seconded By Brenda Stan

THAT the public portion of the meeting be closed.

Carried

Member Comments

The Chair expressed the application appeared appropriate.

Moved By Colin McCann

Seconded By Brenda Stan

Application B2-2024P made for consent to convey 572 square metres of land (Part 1), for future construction of a semi-detached dwelling, is hereby: GRANTED

Application B3-2024P made for consent to convey 572 square metres of land (Part), for future construction of a semi-detached dwelling, is hereby: GRANTED

The above decisions are subject to the following conditions:

To the Satisfaction of the Director of Public Works

- 1. That the applicant obtains a Driveway Entrance Permit for the construction of a new driveway. This permit is obtained through the Public Works Department. All associated costs with this permit are the responsibility of the owner.**
- 2. That the applicant submit an overall lot grading and drainage plan to demonstrate that the drainage does not negatively impact nor rely on neighboring properties.**
- 3. That the applicant confirm that no existing utilities currently cross the proposed new property line. Should any services cross this new property line, the applicant will be responsible for costs associated with their relocation and/or removal.**
- 4. The proposed force main shall be constructed on private property within a municipal easement to be publicly owned and operated. A Development Agreement will be required to implement the design of the forcemain to the Satisfaction of the Director of Public Works.**
- 5. That the proposed Part 1 and Part 2 is to be individually serviced with its own water service connections. This work is to be done by a suitable contractor, at the owner's expense, and will require a Temporary Works Permit.**

To the Satisfaction of the Secretary-Treasurer

1. 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.
2. That the final certification fee of \$436, 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.

The decisions are based on the following reasons:

1. The application conforms to the policies of the Town of Pelham Official Plan, Regional Policy Plan and Provincial Policy Statement, and complies with the Town's Zoning By-law.
2. This Decision is rendered having regard to the provisions of Sections 51(24) and 51(25) of the Planning Act, R.S.O., as amended.
3. The Committee of Adjustment considered all written and oral submissions and finds that, subject to the conditions of provisional consent, this application meets Planning Act criteria, is consistent with the Provincial Policy Statement and complies with the Growth Plan, the Niagara Region Official Plan and the Town Official Plan.

Carried

8.3 B3-2024P - 1171 Maple Street - Part 2

File B3-2024P was considered concurrently with file B2-2024P. Please refer to B2-2024P for minutes and decisions.

8.4 B4-2024P 201 Canboro Road - Part 1

File B4-2024P was deferred.

8.5 B5-2024P - 201 Canboro Road - Part 2

File B5-2024P was deferred.

8.6 B6-2024P - 168 Pancake Lane

File B6-2024P was deferred.

9. Minutes for Approval

Moved By Colin McCann

Seconded By Brenda Stan

THAT the Committee of Adjustment minutes dated November 6, 2023, be approved.

Carried

10. Adjournment

The hearing was adjourned at 4:35 pm.

Moved By Brenda Stan

Seconded By Colin McCann

BE IT RESOLVED THAT this Meeting of the Committee of Adjustment be adjourned until the next regular meeting scheduled for February 5, 2024 at 4:00 pm.

Carried

Isaiah Banach, Chair

Sarah Leach, Secretary-Treasurer

Committee of Adjustment**Minutes**

Meeting #: 03-2024
Date: Monday, March 4, 2024
Time: 4:00 pm
Location: Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

Members Present Don Rodbard
Isaiah Banach
John Cappa

Members Absent Brenda Stan
Colin McCann

Staff Present Sarah Leach
Andrew Edwards
Jodi Legros
Gimuel Ledesma

1. Attendance

Applicants, Agents and viewing members of the public via hybrid in-person and live-stream through the Town of Pelham YouTube Channel.

2. Call to Order, Declaration of Quorum and Introduction of Committee and Staff

Noting that a quorum was present, Chair Banach called the meeting to order at approximately 4:00 pm. The Chair read the opening remarks to inform those present on the meeting protocols and he introduced the hearing panel and members of staff present.

3. Land Recognition Statement

Ms. Sarah Leach, Secretary-Treasurer, recited the land recognition statement.

4. Approval of Agenda

Moved By John Cappa
Seconded By Don Rodbard

THAT the agenda for the March 04, 2024, Committee of Adjustment meeting be adopted, as circulated.

Carried

5. Disclosure of Pecuniary Interest and General Nature Thereof

There were no pecuniary interests disclosed by any of the members present.

6. Requests for Withdrawal or Adjournment

Ms. Leach stated no requests for withdrawal or adjournment have been made.

7. Applications for Minor Variance

7.1 A2-2024P - 801 Canboro Road and 1126 Maple Street

Purpose of the Application

Application for relief is made, to facilitate an addition on the north side of the building to the existing structure in the southwest corner of the parcel. The Owner has initiated the process to merge 801 Canboro Road with 1126 Maple Street through a Deeming By-law. The applicant seeks relief from the following section(s) of the Zoning By-law: Section 8.1.3 “Minimum Rear Yard Setback” – to permit a minimum rear yard setback of 2.8 metres whereas a minimum 6.0 metre setback is required; Section 8.1.3 “Maximum Side Yard Setback” – to permit a maximum side yard setback of 15.3 metres whereas a maximum 1.2 metre maximum side yard is permitted; Section 4.3.1 “Short-term Bicycle Parking” – to permit 0 spaces whereas a minimum of 4 spaces is required; and Section 4.3.1 “Long-term Bicycle Parking” – to permit 0 spaces whereas a minimum of 1 long-term space is required.

Representation

The Agent, Joel Rypstra was present.

Correspondence Received

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building

Applicants Comments

None.

Public Comments

None.

Ms. Leach, Secretary-Treasurer indicated she checked the clerks@pelham.ca email address at 4:09 pm and confirmed no e-mails had been received with regard to the subject application. Ms. Leach indicated the public comment portion of the application could be closed. The Committee agreed to close the public portion of the meeting and deliberate.

Moved By John Cappa

Seconded By Isaiah Banach

THAT the public portion of the meeting be closed.

Carried

Member Comments

The Chair stated the proposal was a logical extension of the existing building and satisfied the four minor variance tests.

Moved By John Cappa

Seconded By Don Rodbard

Application for relief of Section 8.1.3 “Minimum Rear Yard Setback” – to permit a minimum rear yard setback of 2.8 metres whereas a minimum 6.0 metre setback is required, is hereby: GRANTED;

The above decision is based on the following reasons:

1. **The variance is minor in nature given the orientation of the site, and is not anticipated to impact the streetscape, or neighbouring properties, in a significant way.**

2. The general purpose and intent of the Zoning By-Law is maintained.
3. The intent of the Official Plan is maintained.
4. The proposal is desirable for the appropriate development and/or use of the land because it will permit the natural extension of the existing repair garage.
5. This application is granted without prejudice to any other application in the Town of Pelham.
6. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.

Application for relief of Section 8.1.3 “Maximum Side Yard Setback” – to permit a maximum side yard setback of 15.3 metres whereas a maximum 1.2 metre maximum side yard is permitted, is hereby: GRANTED;

The above decision is based on the following reasons:

1. The variance is minor in nature as the side yard functions as a rear yard, and as such, the impact of the increased setback is minimal. The scale of the proposed addition will not affect the original intent of the building design, and the streetscape along Canboro Road will remain consistent.
2. The general purpose and intent of the Zoning By-Law is maintained.
3. The intent of the Official Plan is maintained.
4. The proposal is desirable for the appropriate development and/or use of the land because it will permit an appropriate addition to the existing business.
5. This application is granted without prejudice to any other application in the Town of Pelham.
6. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.

Application for relief of Section 4.3.1 “Short-term Bicycle Parking” – to permit 0 spaces whereas a minimum of 4 spaces is required, is hereby: GRANTED;

The above decision is based on the following reasons:

- 1. The variance is minor in nature as it is not anticipated to detract from the ability of the site to accommodate bicycle parking for customers.**
- 2. The general purpose and intent of the Zoning By-Law is maintained.**
- 3. The intent of the Official Plan is maintained.**
- 4. The proposal is desirable for the appropriate development and/or use of the land because an existing bicycle rack along the Canboro Road frontage of the site remains.**
- 5. This application is granted without prejudice to any other application in the Town of Pelham.**
- 6. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.**

Application for relief of Section 4.3.1 “Long-term Bicycle Parking” – to permit 0 spaces whereas a minimum of 1 long-term space is required, is hereby: GRANTED;

The above decision is based on the following reasons:

- 1. The variance is minor in nature as it is not anticipated to detract from the ability of the site to accommodate bicycle parking for customers.**
- 2. The general purpose and intent of the Zoning By-Law is maintained.**
- 3. The intent of the Official Plan is maintained.**
- 4. The proposal is desirable for the appropriate development and/or use of the land because an existing bicycle rack along the Canboro Road frontage of the site remains.**

5. This application is granted without prejudice to any other application in the Town of Pelham.
6. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.

The above decisions are subject to the following conditions:

1. That all necessary building permits are obtained prior to construction commencing, to the satisfaction of the Chief Building Official.

Prior to Building Permit:

1. To the Satisfaction of the Director of Community Planning and Development
 1. Enter into a site plan agreement with the Town to the satisfaction of the Director of Community Planning and Development.

Carried

7.2 A3-2024P 27 Milburn Drive

Purpose of the Application

Application for relief is made, to facilitate the construction of an accessory building/pool area. The applicant seeks relief from the following section(s) of the Zoning By-law: Section 3.1(c) "Accessory Uses, Buildings and Structures" – requesting an accessory building be permitted a front yard setback of 2.18m, whereas accessory structures are not to be located in any front yard; and Section 3.33(b) "Swimming Pools" – to permit a setback of 2.53m to a front lot line for pool circulating equipment in an enclosed building, whereas circulating equipment is not permitted closer to any street than the required yard for the main building or structure.

Representation

The Applicants, Blake and Joanna Dolce were present.

Correspondence Received

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building

Applicants Comments

None.

Public Comments

None.

Ms. Leach, Secretary-Treasurer indicated she checked the clerks@pelham.ca email address at 4:18 pm and confirmed no e-mails have been received with regard to the subject application. Ms. Leach indicated the public comment portion of the application could be closed. The Committee agreed to close the public portion of the meeting and deliberate.

Moved By Don Rodbard

Seconded By John Cappa

THAT the public portion of the meeting be closed.

Carried

Member Comments

The Chair stated the proposal was a logical use of the property and satisfied the four minor variance tests. The Chair asked if a pool permit was considered a building permit. Andrew Edwards, Town Planner, responded that a pool permit was separate, and issued through the By-law Division. The Chair requested a formal amendment to the conditions of approval.

Moved By Isaiah Banach

Seconded By John Cappa

THAT the following condition of approval be added:

That the Applicant obtain a pool permit through the By-law Division.

Moved By Isaiah Banach
Seconded By John Cappa

Application for relief of Section 3.1(c) “Accessory Uses, Buildings and Structures” – requesting an accessory building be permitted a front yard setback of 2.18m, whereas accessory structures are not to be located in any front yard, is hereby: GRANTED;

The above decision is based on the following reasons:

- 1. The variance is minor in nature as it is not anticipated to impact the streetscape in a significant way. The design/placement of the structure utilizes the existing amenity area while maintaining a compatible built form with the surrounding neighbourhood.**
- 2. The general purpose and intent of the Zoning By-Law is maintained.**
- 3. The intent of the Official Plan is maintained.**
- 4. The proposal is desirable for the appropriate development and/or use of the land because it will facilitate the construction of an accessory building on an irregular, triangular-shaped lot.**
- 5. This application is granted without prejudice to any other application in the Town of Pelham.**
- 6. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.**

Application for relief of Section 3.33(b) “Swimming Pools” – to permit a setback of 3.33m to a front lot line for pool circulating equipment in an enclosed building, whereas circulating equipment is not permitted closer to any street than the required yard for the main building or structure, is hereby: GRANTED;

The above decision is based on the following reasons:

- 1. The variance is minor in nature as no adverse impact on the streetscape is anticipated.**

2. **The general purpose and intent of the Zoning By-Law is maintained.**
3. **The intent of the Official Plan is maintained.**
4. **The proposal is desirable for the appropriate development and/or use of the land because it will maintain adequate outdoor amenity area for the property owners. Locating the circulating equipment in the accessory structure will provide a visual and noise-attenuating buffer for the machinery.**
5. **This application is granted without prejudice to any other application in the Town of Pelham.**
6. **The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.**

The above decisions are subject to the following conditions:

1. **That all necessary building permits are obtained prior to construction commencing, to the satisfaction of the Chief Building Official.**
2. **That the Applicant obtain a pool permit, through the By-law Division.**

Prior to Building Permit:

1. **To the Satisfaction of the Director of Community Planning and Development**
 1. **Obtain approval for a fence variance.**
2. **To the Satisfaction of the Director of Public Works**
 1. **The Applicant must submit a comprehensive Lot Grading & Drainage Plan demonstrating that the drainage neither relies, nor negatively impacts neighboring properties, and that all drainage will be contained within the respective lot.**

Carried

8. Applications for Consent

None.

9. Minutes for Approval

Moved By John Cappa

Seconded By Isaiah Banach

THAT the Committee of Adjustment minutes dated February 5, 2024, be approved.

Carried

10. Adjournment

The hearing was adjourned at 4:23 pm.

Moved By John Cappa

Seconded By Isaiah Banach

BE IT RESOLVED THAT this Meeting of the Committee of Adjustment be adjourned until the next regular meeting scheduled for April 2, 2024, at 4:00 p.m.

Carried

Isaiah Banach, Chair

Sarah Leach, Secretary-Treasurer