

Growth Management and Planning Division

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Via Email Only

April 24, 2024

File Number: PLMV202400263

Sarah Leach
Secretary-Treasurer of the Committee of Adjustment
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: A8-2024P
Applicant/Owner: [REDACTED]
Location: 928 Foss Road, Pelham

Regional Growth Management and Planning Division staff has reviewed the Minor Variance application for 928 Foss Road in the Town of Pelham (“subject lands”).

The applicant seeks relief from the following sections of the Town’s Zoning By-law 4481 (2022), as amended, to facilitate the construction of a new poultry barn:

- **Section 3.17(a) “Minimum Distance Separation Requirements”** – to permit a setback of 4.57 m to an interior lot line whereas Minimum Distance Separation II (MDS II) regulations require a setback of 13 m; and
- **Section 5.1.2 “Zone Requirements for Agricultural Use”** – to permit an interior side yard setback of 4.57 m whereas the By-law requires a minimum side yard setback of 20 m.

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

Provincial and Regional Policies

The subject lands are located within a Prime Agricultural Area under the *Provincial Policy Statement, 2020* (PPS), *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020* (Growth Plan), and *Niagara Official Plan, 2022* (NOP). Provincial and Regional policies recognize that agricultural land is a valuable asset and that all types,

sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected in prime agricultural areas in accordance with Provincial standards.

The PPS and NOP (Policy 4.1.3.6) require that new development comply with the Minimum Distance Separation (MDS) formulae developed by the Ministry of Agriculture, Food and Rural Affairs (OMAFRA), which is applied in order to separate uses to reduce incompatibility concerns about odour from livestock facilities. Regional staff note that municipalities are responsible for ensuring that MDS setbacks are met when reviewing land use planning applications or building permits. Therefore, the Committee should look for confirmation from Town staff to determine that the proposed decreased setbacks will not adversely impact surrounding sensitive land uses.

Regional staff do not object to the proposal from a planning perspective provided the Town is satisfied that the decreased setbacks meet the intent of the MDS formula and will not adversely impact the adjacent property.

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.

Regional staff note that the Town of Pelham has a Heritage Master Plan. As such, Town staff should be satisfied that any local archaeological provisions / requirements have been met. Should the Town require an archaeological assessment for the proposed development, staff request that all applicable reports and a Ministry letter of acknowledgement are circulated to the Region for review.

The following archaeological advisory clause is provided for information purposes:

"If deeply buried or previously undiscovered archaeological remains/resources are found during development activities on the subject lands, all activities must stop immediately. If the discovery is human remains, contact the police and coroner to secure the site. If the discovery is not human remains, the area must be secured to prevent site disturbance. The project proponent must then follow the steps outlined in the Niagara Region Archaeological Management Plan: Appendix C."

Natural Heritage

The subject lands are impacted by the Region's Natural Environment System (NES), consisting of the Upper Coyle Creek Provincially Significant Wetland Complex (PSW), Other Wetland and potential Significant and/or Other Woodland. The property is also partly mapped as part of the Provincial Natural Heritage System (PNHS). As such, these features are considered Key Natural Heritage Features (KNHF) and/or Key

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Hydrologic Features (KHF).

The NOP requires the completion of an Environmental Impact Study (EIS) when development or site alteration is proposed within 120 m of a KNHF/KHF. However, as the proposed development (new poultry barn) is more than 120 metres from the natural heritage features on site, staff offer no requirements from an environmental perspective.

Servicing

Regional Private Sewage System staff conducted an on-site inspection on April 22, 2024. Staff were unable to locate any records for the existing sewage system. Staff note that the existing sewage system is an older Class 4 type system (consisting of a septic tank and tile bed) and is considered “legal non-conforming”. There were no visible defects found with the sewage system at the time of the inspection.

Staff determined that the proposed poultry barn will not encroach onto the existing sewage system and that there is enough usable land for the installation of a replacement sewage system in the future, when required.

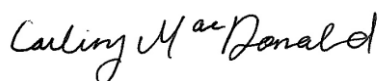
As such, staff offer no objection to the application from a servicing perspective, provided no washrooms or additional employees are included with the proposal. If at any time washroom facilities are proposed within the barn, a new sewage system permit is required for the installation of a new system to accommodate the increase in sewage flows.

Conclusion

In conclusion, Regional Growth Management and Planning Division staff offer no objection to the application, in principle, provided the Town is satisfied that the decreased setbacks meet the intent of the MDS formula and will not adversely impact nearby land uses.

Please send copies of the staff report and notice of the Town’s decision on this application. 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, MCIP, RPP, Manager of Development Planning, Niagara Region