

Committee of Adjustment AGENDA

06-2024

June 3, 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**
5. **Disclosure of Pecuniary Interest and General Nature Thereof**
6. **Requests for Withdrawal or Adjournment**
7. **Applications for Consent**

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1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Niagara Region
5. NPCA
6. Hydro One

8. Applications for Minor Variance

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

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

9. Minutes for Approval 59

May 6, 2024

10. Adjournment



Community Planning and Development Department
Committee of Adjustment
Monday, June 03, 2024

Consent Application: B10-2024P

Municipal Address: 594 River Road
Legal Description: CON 14 PT LOT 11
Roll number: 2732 030 017 17300

Location of Lands and Purpose of Application:

The subject parcel, shown as Part 1 on the attached sketch, has a frontage of 8.84m on the south side of River Road, lying east of Cream Street, being Part of Lot 11, Concession 14, in the Town of Pelham.

The Subject Lands are located on the south side of River Road in the Town of Pelham, approximately 100 metres east of Cream Street. 572 River Road abuts 594 River Road to the east. Both 572 and 594 River Road are located along the north bank of the Welland River, which delimits their southern extent.

The Subject Lands slope downward to the Welland River, with each existing lot occupied by detached dwellings that are one-storey at the front and have walkout basements to the rear.

Both 572 and 594 River Road are serviced by private water and septic systems. Application is made for consent to convey 244 square metres of land (Part 1), to be added to the abutting property to the east (Part 3), for future construction of an attached garage. Part 2 is to be retained for continued residential use of the dwelling known municipally as 594 River Road.

This application is being considered concurrently with Minor Variance Files A11-2024P and A12-2024P.

Applicable Planning Policies:

Planning Act

Section 53 (1) states a land owner may apply for a consent and the council may, subject to this section, give a consent if satisfied that a plan of subdivision is not necessary for the proper and orderly development of the municipality.

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.

According to the PPS, the lands are considered to be within a prime agricultural area. The permitted uses, among others, include agricultural/agricultural related uses, limited residential development and home occupations.

Both residential lots are serviced by individual on-site sewage and water services, consistent with PPS policy 1.6.6.4. On-site sewage and water services will not be impacted by the proposed consent and attached garage.

Provincial and Regional policies aim to protect agricultural land for long-term agricultural use. Specifically, Section 2.3 “Agriculture” of the PPS sets the policy framework for prime agricultural areas. Policy 2.3.6.1 permits limited non-agricultural uses in prime agricultural areas. Planning staff note that the properties are relatively small in area, are not farmed and are considered to be rural residential lots at this time.

PPS policy 2.3.4.2 provides that lot adjustments in prime agricultural areas may be permitted for legal or technical reasons. Under the PPS, legal or technical reasons are defined as means “severances for purposes such as easements, corrections of deeds, quit claims, and minor boundary adjustments, which do not result in the creation of a new lot.”

Policy 2.6.2 states that development and site alteration shall not be permitted on lands containing archaeological resources or archaeological potential unless the resources have been conserved. The Town’s Heritage Master Plan also identifies this area as having composite archaeological resource potential. An archaeological assessment was submitted with the application.

The proposed boundary adjustment involves lands that are being used as a rural residential lot, that are not conducive to farming. There are no anticipated impacts to surrounding agricultural uses as a result of the application. Staff are of the opinion that the boundary adjustment can be considered to be for a legal or technical reason.

Staff are of the opinion that the proposed 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 lands are designated prime agricultural area in the Growth Plan for the Greater Golden Horseshoe. No new residential uses are proposed as a result of the requested boundary adjustment.

The property is also partly mapped as part of the Provincial Natural Heritage System and considered Key Natural Heritage Features and/or Key Hydrologic Features.

Section 4.2.3.1(e)(i) of the Growth Plan allows for expansions to existing buildings and structures provided that the use does not expand into KNHF/KHF or the VPZ unless there is no other alternative, and the expansion or alteration in the feature is minimized and, in the vegetation protection zone, is directed away from the feature to the maximum extent possible. The proposed boundary adjustment does not further fragment the features on site, and further the attached garage does not expand into the KNHF. Given the size of the site, staff are of the opinion there is no alternative location that is outside of the 30 metre VPZ.

Staff are of the opinion that the proposed consent conforms with the policies of 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.

Similar to the PPS, the NOP restrict lot creation in agricultural areas, and only permit severances for agricultural lots, legal or technical reasons, minor boundary adjustments, a residence surplus to a farming operation, and infrastructure (subject to specific criteria). Regional policy defers to local municipalities to determine what is considered a "legal or technical reason" for a consent within the Prime Agricultural Area.

NOP Policy 4.1.4.3 requires that all development and uses include sustainable on-site private water supply and private sewage disposal systems. the existing septic system for 594 River Road is wholly contained on "Part 2" and that the proposed development will not remove any useable area for future replacement of the septic system from the retained lands. A septic inspection was conducted in October 2023. Staff note due to limited area on the site and environmental restrictions from the Welland River,

staff note that the future replacement of the sewage system at 594 River Road will require the use of a holding tank rather than a standard in-ground septic bed.

Regional staff provided comment on the application which concluded the proposal is generally consistent with the Provincial Policy Statement and does not conflict with Provincial and Regional policies, and offered no objection.

As stuff, staff are of the opinion the consent conforms with the NOP.

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 local Official Plan designates the subject lands as 'Good General Agricultural' and 'Environmental Protection One EP1' according to Schedule 'A.' The purpose of the Good General Agricultural designation is to protect and maintain land suitable for agricultural production and permit uses which support and/or are compatible with agriculture. Planning staff note that the properties are relatively small in area, are not farmed and are considered to be rural residential lots at this time.

The lands designated Environmental Protection One (EP1) on Schedule A of the Town's OP are located along the shoreline of the Welland River along the southern boundary of the Subject Lands.

Town policy B3.7.4.2 requires a geotechnical report for lands within or adjacent to stable slopes. A geotechnical report was submitted with the application. It found the proposed attached garage would not negatively impact the stability of the slope and determined it would be setback 8-11 metres from the top of stable slope (i.e. stable top-of bank). Recommendations also address design and construction to ensure the stability of the slope is not negatively impacted by altering natural drainage and that vegetation on the slope is protected during construction and/or repaired/improved post-construction.

Policy D4.3 Archaeological Resources – states that Council recognizes that there are archaeological remnants of pre-contact and early historic habitation as well as archaeological potential areas within the Town. Council shall require archaeological assessments and the preservation or excavation of significant archaeological resources in accordance with Provincial guidelines, requirements, and protocols. An archaeological assessment was submitted with the application.

Policy D5.2.1 states that for any consent application, the Committee of Adjustment shall be satisfied that (among other things) the proposed lot:

- a) Fronts on and will be directly accessed by a public road that is maintained on a year round basis;

- ✓ Unchanged. Access will remain from River Road for both parcels.
- b) Will not cause a traffic hazard as a result of its location on a curve or a hill;
 - ✓ Unchanged.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
 - ✓ To be addressed through concurrent applications for minor variance.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
 - ✓ Yes. Confirmed through Regional site inspection.
- e) Will not have a negative impact on the drainage patterns in the area;
 - ✓ Yes. A lot grading/drainage plan will be required.
- f) Will not affect the develop ability of the remainder of the lands, if they are designated for development by this Plan;
 - ✓ Each land designation and zone are proposed to remain intact on their respective parcels.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
 - ✓ No negative impact is anticipated.
- h) Conforms with Regional lot creation policy as articulated in the Regional Policy Plan; and,
 - ✓ No objection from Niagara Region.
- i) Complies with the appropriate provincial Minimum Distance Separation Formulae, where applicable.
 - ✓ N/A.

Policy D5.2.2 sets the policy basis for boundary adjustments. The policy states: A consent may be permitted for the purpose of correcting conveyances, enlarging existing lots or through acquisition by a public body, provided no new building lot is created. In reviewing an application for a boundary adjustment, the Committee of Adjustment shall be satisfied that the boundary adjustment will not affect the viability of the use of the properties affected as intended by this Plan.

The viability of the both the benefiting and retained lands to be used for residential purposes will be maintained. Upon completion of the boundary adjustment, both parcels will retain sufficient lot area and that is adequate for private servicing. The viability of the retained lands for residential use remains intact. The viability of the benefiting lands is enhanced through a larger lot area.

Town Planning staff are of the opinion the proposed lot boundary adjustment conforms to the local Official Plan.

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

The lands are zoned Environmental Protection 1 under the Town's Zoning By-law. With respect to the zone boundaries, Section 1.5(b)(ii) states that EP1 zones *"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.” As a result, a portion of the lands can be considered to be zoned Agriculture.

Staff acknowledge that the proposed boundary adjustment does not further fragment the features on site nor introduce new residential uses to the properties, and, therefore, offer no objection to the application from a natural heritage perspective.

Zoning deficiencies resulting from the consent application are being addressed through concurrent minor variance applications.

Submitted Materials:

Planning Justification Report

- A Planning Justification Report was submitted with the application which provided background for the application and analyzed Provincial, Regional, and local planning policy.

Archaeological Assessment

- An archaeological assessment was submitted in support of the application. No archaeological resources were discovered as part of the Stage 2 assessment. The applicant also submitted the Ministry of Citizenship and Multiculturalism clearance letter with the application.

Geotechnical Report (Slope Stability Assessment)

- The Report evaluated the stability of the existing slope, including identifying the top of stable slope location. The report provided recommendations for the design and construction of the proposed attached garage from a geotechnical perspective. The report concluded the proposed construction will have no negative impact on the stability of the slope.

Agency and Public Comments:

On May 7, 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
 - No comments.
- Public Works Department
 - 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.
 - 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.
- 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.
- Niagara Region Growth Management and Planning Division
 - The proposal is generally consistent with the Provincial Policy Statement and does not conflict with Provincial and Regional policies pertaining to consents in prime agricultural areas. As such, Regional Growth Management and Planning Division staff offer no objection to the application, provided the Town is satisfied that the boundary adjustment qualifies for legal or technical reasons.
- Niagara Peninsula Conservation Authority
 - NPCA Policy indicates:
 - Lot additions and boundary adjustments may be supported where it has been demonstrated that there is sufficient room outside of the flood hazard to accommodate a building envelope, including space for servicing and amenities.
 - Lots created through Consent are to be setback from the long-term stable top of slope.
 - NPCA staff note that this is a boundary adjustment and not the creation of a new lot.
 - Additionally, technical staff have indicated that there will be sufficient room outside of the flood hazard to accommodate a building envelope, including space for servicing and amenities.
 - As such, the NPCA can support the proposed consent application in principle.

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

Planning Staff Comments:

Based on the analysis in the sections above, Planning staff is of the opinion that the proposed boundary adjustment is consistent with the PPS and conforms to Provincial, Regional, and local plans. The resulting parcels will comply with applicable Zoning By-law following approval of the concurrent minor variance applications, and should not negatively impact the surrounding neighbourhood with respect to traffic, privacy, and stormwater management.

Planning Staff Recommendation:

Planning staff recommend that minor variance file B10/2024P **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 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.
- 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.
- 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.
- That all necessary zoning approvals (minor variance) be obtained for both Part 2 and Parts 1 and 3.

Prepared by:

Andrew Edwards, BES
Planner

Recommended by:

Shannon Larocque, MCIP, RPP
Senior Planner

**Engineering Department
Committee of Adjustment Report****For****B10-2024P
594 River Road****May 22, 2024**

Town staff have reviewed the following documentation for the purpose of **B10-2024P – 594 River Road** consent application for:

Application is made for consent to convey 244 square metres of land (Part 1), to be added to the abutting property to the east (Part 3), for future construction of an attached garage. Part 2 is to be retained for continued residential use of the dwelling known municipally as 594 River Road.

This application is being considered concurrently with and Minor Variance Files A11-2024P and A12-2024P.

Introduction:

The Subject Lands are municipally known as 594 River Road and 572 River Road and legally described as Part of Lot 11 Concession 14 Pelham in the Town of Pelham, Regional Municipality of Niagara. The Subject Lands are located on the south side of River Road in the Town of Pelham, approximately 100 metres east of Cream Street. 572 River Road abuts 594 River Road to the east. Both 572 and 594 River Road are located along the north bank of the Welland River, which delimits their southern extent. The Subject Lands slope downward to the Welland River, with each existing lot occupied by similar detached dwellings that are one-storey at the front and have walkout basements at their rear. A detached garage was constructed west of the existing dwelling at 594 River Road following the approval of Minor Variance application A21/2019P in November 2019.

Both 572 and 594 River Road are serviced by private water and septic systems.

Application is made for consent to convey 244 square metres of land (Part 1), to be added to the abutting property to the east (Part 3), for future construction of an attached garage. Part 2 is to be retained for continued residential use of the dwelling known municipally as 594 River Road.

This application is being considered concurrently with and Minor Variance Files A11-2024P and A12-2024P.

Analysis:**Proposed Site Plan**

See attached conditions below.

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 conditions:

- 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.
- 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: Belinda Menard, Building Inspector, Community Planning & Development

Date: May 22, 2024

Subject: Building Comments on Applications to the Committee of Adjustment for
Minor Variance hearing. 594 River Road, Pelham
File Number: B10– 2024P

Comment:

- Building Department has no comment regarding this boundary adjustment.

Respectfully,
Belinda Menard, Dipl., Constr. Eng. Tech.
Building Inspector

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

May 22, 2024

File Number: PLCS202400552

Sarah Leach

Deputy Clerk/Secretary Treasurer of the Committee of Adjustment

Town of Pelham

20 Pelham Town Square, P.O. Box 400

Fonthill, ON L0S 1E0

To Ms. Leach:

Re: Regional and Provincial Comments**Application Type: Consent****Town File Number(s): B10-2024P****Applicant/Owner:** [REDACTED]**Agent: NPG Planning Solutions Inc. (Aaron Butler)****Location: 572 & 594 River Road, Pelham**

Regional Growth Management and Planning Division staff received the application for consent for 572 and 594 River Road in the Town of Pelham ("subject lands").

The applicant is proposing a consent to convey 244 m² of land ("Part 1") to be added to the abutting property to the east ("Part 3") to facilitate the construction of an attached garage. The retained lands at 594 River Road ("Part 2") will continue to be used for residential purposes.

Staff acknowledge that there are concurrent Minor Variance applications associated with the proposed development (Town File Nos. A11-2024P and A12-2024P). Due to limited Provincial and Regional interest, staff waived their review of these applications.

The following comments are offered from a Provincial and Regional perspective to assist the Town with its consideration of this 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 that must be managed and protected.

The policies of the PPS and NOP restrict lot creation in agricultural areas, and only permit severances for agricultural lots, legal or technical reasons, minor boundary adjustments, a residence surplus to a farming operation, and infrastructure (subject to specific criteria). NOP Policy 4.1.4.3 requires that all development and uses include sustainable on-site private water supply and private sewage disposal systems.

Staff has reviewed the *Planning Justification Report* ("PJR") prepared by NPG Planning Solutions Inc. (dated April 2024). According to the PJR, the consent is being proposed for *legal or technical reasons*, as permitted by NOP Policy 4.1.6.1(d). Regional policy defers to local municipalities to determine what is considered a "legal or technical reason" for a consent within the Prime Agricultural Area.

It is noted in the PJR that the proposed lot boundary ensures that the existing septic system for 594 River Road is wholly contained on "Part 2" and that the proposed development will not remove any useable area for future replacement of the septic system from the retained lands. For more information, refer to the Private Servicing comments below.

Regional staff is satisfied with the analysis provided in the PJR and finds the proposal to be generally consistent with the PPS and in conformity with Provincial and Regional policies. As such, staff offer no objection to the application provided the Town is satisfied that the boundary adjustment qualifies for legal or technical reasons.

Archaeological Potential

The subject lands fall within the Region's mapped area of archaeological potential, as identified on Schedule 'K' of the NOP. Additionally, the properties are mapped as having archaeological potential in the Town's Heritage Master Plan. 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 February 10, 2024). The archaeological assessment evaluated "Part 1" and "Part 2", as referenced on the consent sketch. No archaeological resources were recovered during the Stage 2 field assessment (conducted on December 21, 2023) and no further archaeological assessment was recommended. Staff request that a copy of the acceptance letter from the Ministry of Citizenship and Multiculturalism be circulated to the Town and Region prior to the issuance of a building permit.

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, consisting of the Welland River West Provincially Significant Wetland Complex, Other Woodland, and permanent/intermittent watercourse. The property is also partly mapped as part of the Provincial Natural Heritage System. As such, these features are considered Key Natural Heritage Features and/or Key Hydrologic Features.

NOP policies 3.1.4.8 through 3.1.4.10 discourage or prohibit lot creation or boundary adjustments which fragment natural heritage features and key hydrologic features. Staff acknowledge that the proposed boundary adjustment does not further fragment the features on site, and, therefore, offer no objection to the application from a natural heritage perspective.

Private Servicing

Regional Private Sewage System staff conducted an on-site inspection on October 16, 2023. At the inspection staff noted that the existing septic tank at 572 River Road is located north of the house, and is connected to a legal, non-conforming, in-ground leaching bed located between the house and the Welland River. Based on the sketch prepared by 2 M Architects (dated July 12, 2024), the proposed garage does not encroach on the existing sewage system.

Due to limited area on the site and environmental restrictions from the Welland River, staff note that the future replacement of the sewage system at 594 River Road will require the use of a holding tank rather than a standard in-ground septic bed. Therefore, the removal of land resulting from the proposed boundary adjustment will not impact the replacement sewage system area for 594 River Road.

As such, Regional staff offer no objection to the application from a private servicing perspective.

Conclusion

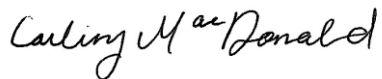
In conclusion, the proposal is generally consistent with the Provincial Policy Statement and does not conflict with Provincial and Regional policies pertaining to consents in

May 22, 2024

prime agricultural areas. As such, Regional Growth Management and Planning Division staff offer no objection to the application, provided the Town is satisfied that the boundary adjustment qualifies for legal or technical reasons.

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, MCIP, RPP, Manager of Development Planning, Niagara Region
Yves Scholten, Planning Ecologist, Niagara Region
Caitlin Goodale, Private Sewage System Inspector, Niagara Region

Sarah Leach

Subject: RE: NPCA Response Regarding Notice of Hearing - June 3, 2024 - Files B10, A11 & A12-2024

From: Meghan Birbeck <mbirbeck@npca.ca>

Sent: Monday, May 27, 2024 10:05 AM

To: Jodi Legros <JLegros@pelham.ca>; Taran Lennard <tlennard@npca.ca>; Sarah Mastroianni <smastroianni@npca.ca>

Cc: Sarah Leach <SLeach@pelham.ca>

Subject: NPCA Response Regarding Notice of Hearing - June 3, 2024 - Files B10, A11 & A12-2024

Good morning Jodi,

As a follow up to my email from 8:44 this morning just now please see the NPCA's final comments below:

- B10-2024P: 594 River Road
 - The consent application indicates that a boundary adjustment, between 594 and 572 River Rd, is proposed to facilitate the construction of a future attached garage at 572 River Rd.
 - NPCA Policy indicates:
 - Lot additions and boundary adjustments may be supported where it has been demonstrated that there is sufficient room outside of the flood hazard to accommodate a building envelope, including space for servicing and amenities.
 - Lots created through Consent are to be setback from the long-term stable top of slope.
 - NPCA staff note that this is a boundary adjustment and not the creation of a new lot.
 - Additionally, technical staff have indicated that there will be sufficient room outside of the flood hazard to accommodate a building envelope, including space for servicing and amenities.
 - As such, the NPCA can support the proposed consent application in principle.
- A12-2024P: 594 River Road
 - The minor variance application indicates that relief is being sought to reduce the allowable lot frontage and lot area as well as to increase the allowable lot coverage and lot coverage for accessory structures.
 - As the minor variance is to permit existing buildings and structures and to facilitate the proposed boundary adjustment, the NPCA can support minor variance application A12-2024P in principle.
- A11-2024P: 572 River Road
 - The minor variance application indicates that relief is being sought to reduce the allowable lot frontage, lot area, front yard setback, and interior side yard setback as well as to increase the allowable lot coverage.

- Regarding the variances for lot frontage and lot area the NPCA understands that these requested variances are to facilitate the proposed boundary adjustment. As such the NPCA can offer support for the variances for lot frontage and lot area for minor variance application A11-2024P in principle.
- Regarding the variance for front yard setback, interior side yard setback, and lot coverage the NPCA understands that these variances are to facilitate a proposed attached garage addition. The subject property is impacted by an apparent valley. The application contained a *Slope Stability Assessment Proposed Garage and Breezeway 572 River Rd, prepared by Soil-Mat Engineers & Consultants Ltd., dated December 7, 2023*. The Slope Stability Assessment indicated that at the closest point the proposed garage and breezeway would have a setback of 8m to the identified long-term top of stable slope. NPCA policy requires new development outside of the settlement area to have a minimum setback of 7.5 metres from the stable top of slope. As the proposed development is projected to be setback greater than 7.5 m the NPCA can offer support for the variances related to the proposed garage development.
- Please note that the proposed garage is still proposed to be development in the NPCA regulated area and as such a work permit will be required from the NPCA. Additionally, during the pre-consultation that was held in August 2023 the NPCA requested the following information that has not been provided as part of the COA package, this information will need to come in at the time of work permit application:
 - Erosion and Sediment Control measures will need to be shown on the submitted site plan.
 - Clarification on the submitted site plan as to whether the “Approx Septic Bed” is existing or proposed.

Additionally, any future developments proposed on either 594 or 572 River Rd will need be circulated to the NPCA for review and approval and possible work permit.

Best,
Meghan



Meghan Birbeck (MS)
Watershed Planner

Niagara Peninsula Conservation Authority (NPCA)
3350 Merrittville Highway, Unit 9, Thorold, Ontario L2V 4Y6

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

From: [SHILLAKU Paul](#)
To: [Jodi Legros](#)
Subject: RE: Notice of Hearing - June 3, 2024 - Files B10, A11 & A12-2024
Date: Friday, May 17, 2024 12:57:50 PM
Attachments: [image003.png](#)
[image004.png](#)

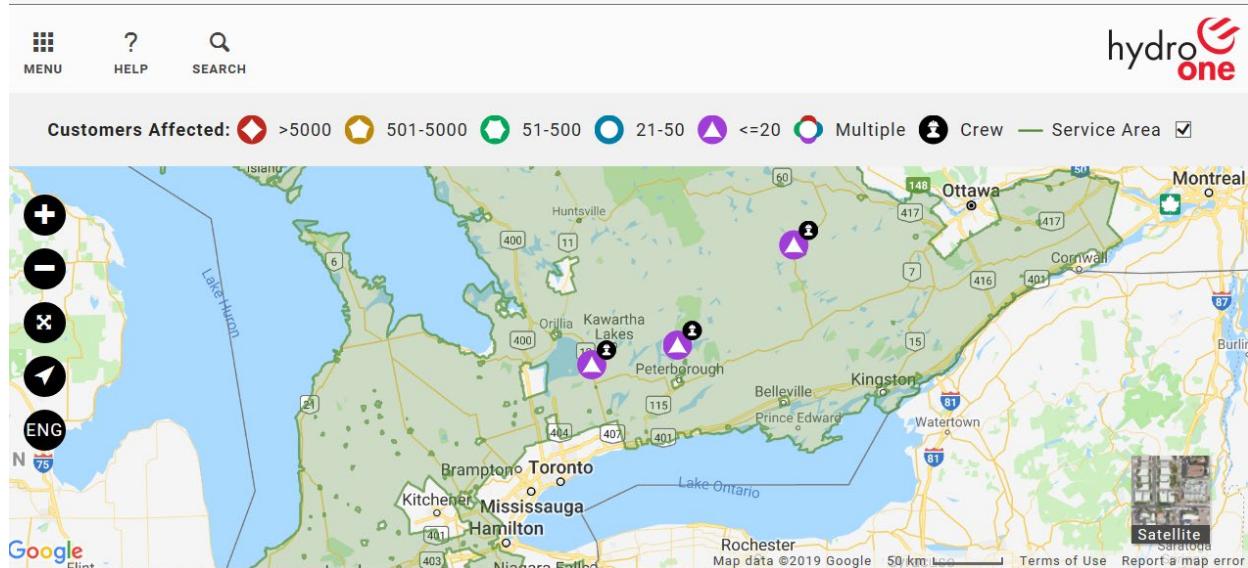
Hello,

We are in receipt of your Application for Consent, B10,. We have reviewed the documents concerning the noted Application and have no comments or concerns at this time. **Our preliminary review considers issues affecting Hydro One's 'High Voltage Facilities and Corridor Lands' only.**

For proposals affecting 'Low Voltage Distribution Facilities' please consult your local area Distribution Supplier.

To confirm if Hydro One is your local distributor please follow the following link:
<http://www.hydroone.com/StormCenter3/>

Please select " Search" and locate address in question by entering the address or by zooming in and out of the map



If Hydro One is your local area Distribution Supplier, please contact Customer Service at 1-888-664-9376 or e-mail CustomerCommunications@HydroOne.com to be connected to your Local Operations Centre

Please let me know if you have any questions or concerns.

Thank you,

Dennis De Rango

Specialized Services Team Lead, Real Estate Department

Hydro One Networks Inc.

Tel: (905)946-6237

Email: Dennis.DeRango@HydroOne.com

From: Jodi Legros <Legros@pelham.ca>

Sent: Tuesday, May 7, 2024 1:34 PM

To: MR18Enquiry@mpac.ca; rowcentre@bell.ca; jim.sorley <jim.sorley@npei.ca>; Enbridge (MunicipalPlanning@enbridge.com) <MunicipalPlanning@enbridge.com>; LANDUSEPLANNING <LandUsePlanning@HydroOne.com>

Subject: Notice of Hearing - June 3, 2024 - Files B10, A11 & A12-2024

***** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. *****

Good afternoon,

Please find the Notice of Hearing for files: [CofA B10, A11, A12-2024](#) (note: link will expire Jun 4)

- B10-2024P: 594 River Road
- A11-2024P: 572 River Road
- A12-2024P: 594 River Road

Comments are due to Planning/Clerks by: **May 22, 2024.**

Should you have any questions or concerns, please contact Sarah Leach, Deputy Clerk via email sleach@pelham.ca.

Best regards,



Jodi Legros
Legislative and Committee Coordinator, Clerks Department
Town of Pelham
D: 905-980-6664 | E: jlegros@pelham.ca
T: 905-892-2607 x322
20 Pelham Town Square | PO Box 400 | Fonthill, ON | L0S 1E0

TOWN OF PELHAM CONFIDENTIALITY NOTICE

The information contained in this communication, including any attachments, may be confidential and is intended only for the use of the recipient(s) named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, disclosure, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please re-send this communication to the sender and permanently delete the original and any copy of it from your computer system. Thank you.



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

Monday, June 03, 2024

Minor Variance Application: A11-2024P

Municipal Address: 572 River Road

Legal Description: CON 14 PT LOT 11

Roll number: 2732 030 017 17100

Nature and Extent of Relief/ Permission Applied for:

The subject land is zoned Agriculture (A) and Environmental Protection Zone 1 (EP1) in accordance with Pelham Zoning By-law 4481(2022), as amended. Application for relief is made, to facilitate the construction of an attached garage and to rectify zoning deficiencies as a result of a consent application B10-2024P. The applicant seeks relief from the following section(s) of the Zoning By-law:

1. **Section 5.1.3 "Minimum Front Yard"** – to permit a minimum front yard setback of 5.53m whereas the By-law requires a minimum front yard setback of 8.0m;
2. **Section 5.1.3 "Minimum Interior Side Yard"** – to permit a minimum interior side yard setback of 4.2m whereas the By-law requires a minimum interior side yard setback of 8.0m;
3. **Section 5.1.3 "Maximum Lot Coverage"** – to permit a maximum lot coverage of 17% whereas the Bylaw permits a maximum lot coverage of 10%;
4. **Section 5.1.3 "Minimum Lot Frontage"** – to permit a minimum lot frontage of 39.3m whereas the By-law requires a minimum lot frontage of 180.0m;
5. **Section 5.1.3 "Minimum Lot Area"** – to permit a minimum lot area of 1326 m² whereas the By-law requires a minimum lot area of 4000m².

This application is being considered concurrently with Consent File B10-2024P and Minor Variance File A12-2024P.

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 (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.

According to the PPS, the lands are considered to be within a prime agricultural area. The permitted uses, among others, include agricultural/agricultural related uses, limited residential development and home occupations.

Both residential lots are serviced by individual on-site sewage and water services, consistent with PPS policy 1.6.6.4. On-site sewage and water services will not be impacted by the proposed consent and attached garage.

Provincial and Regional policies aim to protect agricultural land for long-term agricultural use. Specifically, Section 2.3 “Agriculture” of the PPS sets the policy framework for prime agricultural areas. Policy 2.3.6.1 permits limited non-agricultural uses in prime agricultural areas. Planning staff note that the properties are relatively small in area, are not farmed and are considered to be rural residential lots at this time.

Policy 2.6.2 states that development and site alteration shall not be permitted on lands containing archaeological resources or archaeological potential unless the resources have been conserved. The Town’s Heritage Master Plan also identifies this area as having composite archaeological resource potential. An archaeological assessment was submitted with the application.

The proposed boundary adjustment involves lands that are being used as a rural residential lot, that are not conducive to farming. There are no anticipated impacts to surrounding agricultural uses as a result of the application. Staff are of the opinion that the boundary adjustment can be considered to be for a legal or technical reason.

Staff are of the opinion that the proposed variance 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 subject lands are impacted by the Region's Natural Environment System, consisting of the Welland River West Provincially Significant Wetland Complex, Other Woodland, and permanent/intermittent watercourse. The property is also partly mapped as part of the Provincial Natural Heritage System. As such, these features are considered Key Natural Heritage Features and/or Key Hydrologic Features.

Section 4.2.3.1(e)(i) of the Growth Plan allows for expansions to existing buildings and structures provided that the use does not expand into KNHF/KHF or the VPZ unless there is no other alternative, and the expansion or alteration in the feature is minimized and, in the vegetation protection zone, is directed away from the feature to the maximum extent possible. The proposed boundary adjustment does not further fragment the features on site, and further the attached garage does not expand into the KNHF. Given the size of the site, staff are of the opinion there is no alternative location that is outside of the 30 metre VPZ.

Staff are of the opinion that the proposed variance conforms with the policies of 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.

NOP Policy 4.1.4.3 requires that all development and uses include sustainable on-site private water supply and private sewage disposal systems. The existing septic system for 594 River Road is wholly contained on "Part 2" and that the proposed development will not remove any useable area for future replacement of the septic system from the retained lands. A septic inspection was conducted in October 2023. Staff note due to limited area on the site and environmental restrictions from the Welland River, staff note that the future replacement of the sewage system at 594 River Road will require the use of a holding tank rather than a standard in-ground septic bed.

Regional staff provided comment on the application which concluded the proposal is generally consistent with the Provincial Policy Statement and does not conflict with Provincial and Regional policies, and offered no objection.

As such, staff are of the opinion the variance conforms with the NOP.

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 local Official Plan designates the subject lands as 'Good General Agricultural' and 'Environmental Protection One EP1' according to Schedule 'A.' The purpose of the Good General Agricultural designation is to protect and maintain land suitable for agricultural production and permit uses which support and/or are compatible with agriculture. Planning staff note that the properties are relatively small in area, are not farmed and are considered to be rural residential lots at this time.

The lands designated Environmental Protection One (EP1) on Schedule A of the Town's OP are located along the shoreline of the Welland River along the southern boundary of the Subject Lands.

Policy E5 indicates that the boundaries of the Environmental Protection designations may be imprecise and subject to change, given the dynamic and or seasonal nature of some natural heritage features. The Town shall determine the extent of the environmental areas on a site-by-site basis when considering development proposals, in consultation with the appropriate agencies. Any minor refinement to the Environmental Protection designation shall not require an Amendment to this Plan.

Given that the EP1 designation on the subject property relates to the Welland River, buffer and floodplain, it is reasonable to consider the Environmental Protection One designation to apply to those areas and the lands outside of these areas where the proposed garage is proposed to be designated Good General Agricultural. Accessory uses to residential dwellings are permitted in the Good General Agricultural designation.

Town policy B3.7.4.2 requires a geotechnical report for lands within or adjacent to stable slopes. A geotechnical report was submitted with the application. It found the proposed attached garage would not negatively impact the stability of the slope and determined it would be setback 8-11 metres from the top of stable slope (i.e. stable top-of bank). Recommendations also address design and construction to ensure the stability of the slope is not negatively impacted by altering natural drainage and that vegetation on the slope is protected during construction and/or repaired/improved post-construction.

Policy D4.3 Archaeological Resources – states that Council recognizes that there are archaeological remnants of pre-contact and early historic habitation as well as archaeological potential areas within the Town. Council shall require archaeological assessments and the preservation or excavation of significant archaeological resources in accordance with Provincial guidelines, requirements, and protocols. An archaeological assessment was submitted with the application.

Section E1.5 states in making a determination of whether a variance is minor as required in Item Four, Committee will have more regard for the degree of impact which could result from the relief and less regard to the magnitude of numeric or absolute relief sought by the applicant. The applicant submitted a planning

justification report with the application. Staff are satisfied the reasons detailed in the report are appropriate and agreed with its conclusions.

Town Planning staff are of the opinion the proposed variance conforms to the local Official Plan.

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

The lands are zoned Environmental Protection 1 under the Town's Zoning By-law. With respect to the zone boundaries, Section 1.5(b)(ii) states that EP1 zones *"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."*

As a result, the portion of the property outside of the Welland River, buffer and floodplain, can be considered to be zoned Agricultural. Staff acknowledge that the proposed garage does not further fragment the features on site, and, therefore, offer no objection to the application from a natural heritage perspective.

The subject lands are zoned Agriculture (A) and Environmental Protection Zone 1 (EP1). Under the regulations of the Zoning By-law the minor variance application requests relief from:

1. **Section 5.1.3 "Minimum Front Yard"** – to permit a minimum front yard setback of 5.53m whereas the By-law requires a minimum front yard setback of 8.0m;
2. **Section 5.1.3 "Minimum Interior Side Yard"** – to permit a minimum interior side yard setback of 4.2m whereas the By-law requires a minimum interior side yard setback of 8.0m;
3. **Section 5.1.3 "Maximum Lot Coverage"** – to permit a maximum lot coverage of 17% whereas the Bylaw permits a maximum lot coverage of 10%;
4. **Section 5.1.3 "Minimum Lot Frontage"** – to permit a minimum lot frontage of 39.3m whereas the By-law requires a minimum lot frontage of 180.0m;
5. **Section 5.1.3 "Minimum Lot Area"** – to permit a minimum lot area of 1326 m² whereas the By-law requires a minimum lot area of 4000m².

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.		Section 5.1.3 "Minimum Front Yard"

	<p>Yes, the variance is minor in nature. The reduced setback on the subject property and adjacent properties is minimal given the surrounding context. The rural residential/agricultural character of the neighbourhood is not anticipated to be impacted through the proposed variance. The lot area remains available to handle stormwater runoff, the existing septic system, and preserve amenity area.</p>
	<p>Section 5.1.3 "Minimum Interior Side Yard"</p> <p>Yes, the variance is minor in nature. No negative impacts are anticipated on the adjacent property as adequate distance separates the nearest residential neighbour from the location of the proposed attached garage. An adequate setback will be maintained for access to the rear, drainage, and maintenance.</p> <p>Section 5.1.3 "Maximum Lot Coverage"</p> <p>Yes, the variance is minor in nature. The increased coverage amounts to approximately 7% of the entirety of the lot. No negative impacts are anticipated on the adjacent properties as adequate distance separates the nearest residential neighbour from the location of the addition to the dwelling. Adequate yard setbacks will be maintained for access to the rear, drainage, and maintenance.</p> <p>Section 5.1.3 "Minimum Lot Frontage" Section 5.1.3 "Minimum Lot Area"</p> <p>Yes, the variances are minor in nature. The lands are considered a rural residential lot given their current use. There are six (6) contiguous residential lots found along River Road, with similar frontages and areas. The lands are considered a rural residential lot given their current residential use. No adverse impacts are anticipated to result from the requested relief.</p>
The variance is desirable for the development or use of the land.	<p>Section 5.1.3 "Minimum Front Yard"</p> <p>Yes, the variance is desirable for the development or use of the land. The requested variance is not anticipated to have negative impacts on the streetscape given the placement of the accessory structure setback from the street and the existing character of the area. The location is desirable as the setback will enable the proposed accessory structure to be setback further from the Welland River and stable top of slope.</p> <p>Section 5.1.3 "Minimum Interior Side Yard"</p> <p>Yes, the variance is desirable for the development or use of the land. The structure is located in an appropriate location and as such staff are of the opinion the variance is desirable for the development or use of the land.</p> <p>Section 5.1.3 "Maximum Lot Coverage"</p> <p>Yes, the variance is desirable for the development or use of the land. The increase in lot coverage for the accessory building is desirable as it will permit design flexibility while maintaining adequate amenity area. An attached garage is an appropriate development for the lands.</p>

	<p>Section 5.1.3 "Minimum Lot Frontage" Section 5.1.3 "Minimum Lot Area"</p> <p>Yes, the variance is desirable for the development or use of the land. The reduced lot frontage and area does not alter the sewage and water servicing arrangements or impact the ability to provide sustainable on-site sewage and water services. The variance will facilitate an appropriate development for the site.</p>
The variance maintains the general intent and purpose of the Zoning By-law.	<p>Section 5.1.3 "Minimum Front Yard"</p> <p>Yes, the variance maintains the general intent and purpose of the Zoning By-law. The intent of a minimum front yard is to ensure that there remain adequate setbacks from the street. The garage has been designed and sited as to not detract from the residential use of the property or the character of the area.</p>
	<p>Section 5.1.3 "Minimum Interior Side Yard"</p> <p>Yes, the variance maintains the general intent and purpose of the Zoning By-law. The variance maintains the general intent of the Zoning By-law as the requested side yard setback reduction leaves adequate space for passage, drainage, and spatial separation between adjacent land uses. Given the rural residential use of the adjacent lands, staff do not anticipate any issues in terms of compatibility, drainage, or spatial separation.</p>
	<p>Section 5.1.3 "Maximum Lot Coverage"</p> <p>Yes, the variance maintains the general intent and purpose of the Zoning By-law. The intent of the maximum lot coverage provision of the By-law is to maintain adequate space for landscaping, leisure, drainage, and to maintain neighbourhood streetscapes and compatibility.</p> <p>The increase in lot coverage is not anticipated to have any a negative impact with respect to the intent of the By-law.</p>
	<p>Section 5.1.3 "Minimum Lot Frontage"</p> <p>Yes, the variance maintains the general intent and purpose of the Zoning By-law. The intent of a minimum lot frontage is to ensure adequate access to the street, in order to maintain safety, accessibility, and functionality. A secondary intent is to ensure consistency across the streetscape. Given the lot context, the variance is not anticipated to alter the streetscape in a significant way. Adequate frontage will remain for access and functionality of the site.</p>
	<p>Section 5.1.3 "Minimum Lot Area"</p> <p>Yes, the variance maintains the general intent and purpose of the Zoning By-law. The intent of a minimum lot area in the context of a rural residential lot is to ensure there is adequate space for private septic and water service, and to ensure drainage can be managed on site. The reduced lot area does not alter the sewage and water servicing arrangements or impact the ability to provide sustainable on-site sewage and water services. The variance will facilitate an appropriate development for the site.</p>

<p>The variance maintains the general intent and purpose of the Official Plan.</p>	<p>All variances</p> <p>Yes, the variances maintain the general intent and purpose of the Official Plan. The intent of the Official Plan through the Good General Agricultural designation is to protect and maintain land suitable for agricultural production and permit uses which support and/or are compatible with agriculture.</p> <p>The requested variance should have no impact on the agricultural viability of the surrounding area and will not compromise the objectives of the Official Plan, with respect to land use compatibility, storm water runoff and private sewage system servicing capabilities.</p> <p>The proposal is generally consistent in built form, scale, and massing with existing development and the character of the area.</p> <p>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 May 7, 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 will be required.
- Public Works Department
 - 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.
 - 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.
 - 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.
- Niagara Region Growth Management and Planning Division
 - The proposal is generally consistent with the Provincial Policy Statement and does not conflict with Provincial and Regional policies pertaining to consents in prime agricultural areas. As such, Regional Growth Management and Planning Division staff offer no objection to the

application, provided the Town is satisfied that the boundary adjustment qualifies for legal or technical reasons.

- Niagara Peninsula Conservation Authority
 - The minor variance application indicates that relief is being sought to reduce the allowable lot frontage, lot area, front yard setback, and interior side yard setback as well as to increase the allowable lot coverage.
 - Regarding the variances for lot frontage and lot area the NPCA understands that these requested variances are to facilitate the proposed boundary adjustment. As such the NPCA can support for the variances for lot frontage and lot area for minor variance application A11-2024P in principle.
 - Regarding the variance for front yard setback, interior side yard setback, and lot coverage the NPCA understands that these variances are to facilitate a proposed attached garage addition. The subject property is impacted by an apparent valley. The application contained a *Slope Stability Assessment Proposed Garage and Breezeway 572 River Rd, prepared by Soil-Mat Engineers & Consultants Ltd., dated December 7, 2023*. The Slope Stability Assessment indicated that at the closest point the proposed garage and breezeway would have a setback of 8m to the identified long-term top of stable slope. NPCA policy requires new development outside of the settlement area to have a minimum setback of 7.5 metres from the stable top of slope. As the proposed development is projected to be setback greater than 7.5 m the NPCA can offer support for the variances related to the proposed garage development.
 - Please note that the proposed garage is still proposed to be developed in the NPCA regulated area and as such a work permit will be required from the NPCA. Additionally, during the pre-consultation that was held in August 2023 the NPCA requested the following information that has not been provided as part of the COA package, this information will need to come in at the time of work permit application:
 - Erosion and Sediment Control measures will need to be shown on the submitted site plan.
 - Clarification on the submitted site plan as to whether the “Approx Septic Bed” is existing or proposed.

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

Planning Staff Comments:

It is noted that PSW's are also regulated by the Niagara Peninsula Conservation Authority (NPCA). A work permit through the NPCA is a requirement.

Based on the analysis given in above sections of this report, 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 A11/2024P **be approved** subject to the following condition(s):

THAT the applicant:

- Obtain permit approval from the Niagara Peninsula Conservation Authority and pay all required fees.
- That all necessary building permits be acquired prior to construction commencing, to the satisfaction of the Chief Building Official.
- That the approval of the minor variance is subject to Consent File B10/2024P obtaining final approval.
- 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.
- 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.
- 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.

Prepared and Submitted by:

Andrew Edwards, BES
Planner

Recommended by:

Shannon Larocque, MCIP, RPP
Senior Planner

Engineering Department Committee of Adjustment Report

For

**A11-2024P
572 River Road**

May 22, 2024

Town staff have reviewed the following documentation for the purpose of **A11-2024P – 572 River Road** consent application for:

The subject land is zoned Agriculture (A) and Environmental Protection Zone 1 (EP1) in accordance with Pelham Zoning By-law 4481(2022), as amended. Application for relief is made, to facilitate the construction of an attached garage and to rectify zoning deficiencies as a result of a consent application B10-2024P. The applicant seeks relief from the following section(s) of the Zoning By-law:

Section 5.1.3 “Minimum Front Yard” – to permit a minimum front yard setback of 5.53m whereas the By-law requires a minimum front yard setback of 8.0m;

Section 5.1.3 “Minimum Interior Side Yard” – to permit a minimum interior side yard setback of 4.2m whereas the By-law requires a minimum interior side yard setback of 8.0m;

Section 5.1.3 “Maximum Lot Coverage” – to permit a maximum lot coverage of 17% whereas the Bylaw permits a maximum lot coverage of 10%;

Section 5.1.3 “Minimum Lot Frontage” – to permit a minimum lot frontage of 39.3m whereas the By-law requires a minimum lot frontage of 180.0m;

Section 5.1.3 “Minimum Lot Area” – to permit a minimum lot area of 1326 m² whereas the By-law requires a minimum lot area of 4000m².

This application is being considered concurrently with Consent File B10-2024P and Minor Variance File A12-2024P.

Introduction:

The Subject Lands are municipally known as 594 River Road and 572 River Road and legally described as Part of Lot 11 Concession 14 Pelham in the Town of Pelham, Regional Municipality of Niagara. The Subject Lands are located on the south side of River Road in the Town of Pelham, approximately 100 metres east of Cream Street. 572 River Road abuts 594 River Road to the east. Both 572 and 594 River Road are located along the north bank of the Welland River, which delimits their southern extent. The Subject Lands slope downward to the Welland River, with each existing lot occupied by similar detached dwellings that are one-storey at the front and have walkout basements at their rear. A detached garage was constructed west of the existing dwelling at 594 River Road following the approval of Minor Variance application A21/2019P in November 2019.

Both 572 and 594 River Road are serviced by private water and septic systems.

Application is made for consent to convey 244 square metres of land (Part 1), to be added to the abutting property to the east (Part 3), for future construction of an attached garage. Part 2 is to be retained for continued residential use of the dwelling known municipally as 594 River Road.

This application is being considered concurrently with Consent File B10-2024P and Minor Variance File A12-2024P.

Analysis:**Proposed Site Plan**

See attached conditions below.

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 conditions:

- Please refer to conditions for B10-2024P – 594 River Road

To: Sarah Leach

Cc: Andrew Edwards

From: Belinda Menard, Building Inspector/Plans Examiner
Community Planning & Development

Date: May 22, 2024

Subject: Building Comments on Applications to the Committee of Adjustment for
Minor Variance hearing. – 572 River Road, Pelham
File Number: A11/2024P

Comment:

- A building permit will be required for this proposed Accessory Building, should the variance be granted.

Respectfully,
Belinda Menard, Dipl., Constr. Eng. Tech.
Building Inspector

Sarah Leach

Subject: RE: NPCA Response Regarding Notice of Hearing - June 3, 2024 - Files B10, A11 & A12-2024

From: Meghan Birbeck <mbirbeck@npca.ca>

Sent: Monday, May 27, 2024 10:05 AM

To: Jodi Legros <JLegros@pelham.ca>; Taran Lennard <tlennard@npca.ca>; Sarah Mastroianni <smastroianni@npca.ca>

Cc: Sarah Leach <SLeach@pelham.ca>

Subject: NPCA Response Regarding Notice of Hearing - June 3, 2024 - Files B10, A11 & A12-2024

Good morning Jodi,

As a follow up to my email from 8:44 this morning just now please see the NPCA's final comments below:

- B10-2024P: 594 River Road
 - The consent application indicates that a boundary adjustment, between 594 and 572 River Rd, is proposed to facilitate the construction of a future attached garage at 572 River Rd.
 - NPCA Policy indicates:
 - Lot additions and boundary adjustments may be supported where it has been demonstrated that there is sufficient room outside of the flood hazard to accommodate a building envelope, including space for servicing and amenities.
 - Lots created through Consent are to be setback from the long-term stable top of slope.
 - NPCA staff note that this is a boundary adjustment and not the creation of a new lot.
 - Additionally, technical staff have indicated that there will be sufficient room outside of the flood hazard to accommodate a building envelope, including space for servicing and amenities.
 - As such, the NPCA can support the proposed consent application in principle.
- A12-2024P: 594 River Road
 - The minor variance application indicates that relief is being sought to reduce the allowable lot frontage and lot area as well as to increase the allowable lot coverage and lot coverage for accessory structures.
 - As the minor variance is to permit existing buildings and structures and to facilitate the proposed boundary adjustment, the NPCA can support minor variance application A12-2024P in principle.
- A11-2024P: 572 River Road
 - The minor variance application indicates that relief is being sought to reduce the allowable lot frontage, lot area, front yard setback, and interior side yard setback as well as to increase the allowable lot coverage.

- Regarding the variances for lot frontage and lot area the NPCA understands that these requested variances are to facilitate the proposed boundary adjustment. As such the NPCA can offer support for the variances for lot frontage and lot area for minor variance application A11-2024P in principle.
- Regarding the variance for front yard setback, interior side yard setback, and lot coverage the NPCA understands that these variances are to facilitate a proposed attached garage addition. The subject property is impacted by an apparent valley. The application contained a *Slope Stability Assessment Proposed Garage and Breezeway 572 River Rd, prepared by Soil-Mat Engineers & Consultants Ltd., dated December 7, 2023*. The Slope Stability Assessment indicated that at the closest point the proposed garage and breezeway would have a setback of 8m to the identified long-term top of stable slope. NPCA policy requires new development outside of the settlement area to have a minimum setback of 7.5 metres from the stable top of slope. As the proposed development is projected to be setback greater than 7.5 m the NPCA can offer support for the variances related to the proposed garage development.
- Please note that the proposed garage is still proposed to be development in the NPCA regulated area and as such a work permit will be required from the NPCA. Additionally, during the pre-consultation that was held in August 2023 the NPCA requested the following information that has not been provided as part of the COA package, this information will need to come in at the time of work permit application:
 - Erosion and Sediment Control measures will need to be shown on the submitted site plan.
 - Clarification on the submitted site plan as to whether the “Approx Septic Bed” is existing or proposed.

Additionally, any future developments proposed on either 594 or 572 River Rd will need be circulated to the NPCA for review and approval and possible work permit.

Best,
Meghan



Meghan Birbeck (MS)
Watershed Planner

Niagara Peninsula Conservation Authority (NPCA)
3350 Merrittville Highway, Unit 9, Thorold, Ontario L2V 4Y6

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

From: [SHILLAKU Paul](#)
To: [Jodi Legros](#)
Subject: RE: Notice of Hearing - June 3, 2024 - Files B10, A11 & A12-2024
Date: Friday, May 17, 2024 12:57:50 PM
Attachments: [image003.png](#)
[image004.png](#)

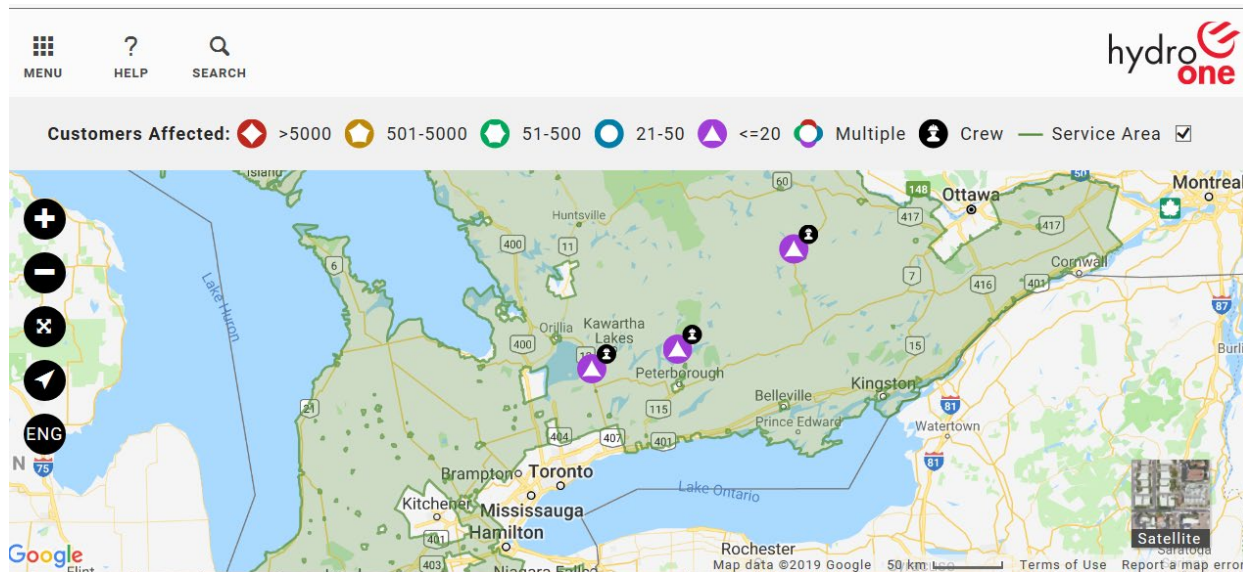
Hello,

We are in receipt of your Application for Consent, B10,. We have reviewed the documents concerning the noted Application and have no comments or concerns at this time. **Our preliminary review considers issues affecting Hydro One's 'High Voltage Facilities and Corridor Lands' only.**

For proposals affecting 'Low Voltage Distribution Facilities' please consult your local area Distribution Supplier.

To confirm if Hydro One is your local distributor please follow the following link:
<http://www.hydroone.com/StormCenter3/>

Please select " Search" and locate address in question by entering the address or by zooming in and out of the map



If Hydro One is your local area Distribution Supplier, please contact Customer Service at 1-888-664-9376 or e-mail CustomerCommunications@HydroOne.com to be connected to your Local Operations Centre

Please let me know if you have any questions or concerns.

Thank you,

Dennis De Rango

Specialized Services Team Lead, Real Estate Department

Hydro One Networks Inc.

Tel: (905)946-6237

Email: Dennis.DeRango@HydroOne.com

From: Jodi Legros <JLegros@pelham.ca>
Sent: Tuesday, May 7, 2024 1:34 PM
To: MR18Enquiry@mpac.ca; rowcentre@bell.ca; jim.sorley <jim.sorley@npei.ca>; Enbridge (MunicipalPlanning@enbridge.com) <MunicipalPlanning@enbridge.com>; LANDUSEPLANNING <LandUsePlanning@HydroOne.com>
Subject: Notice of Hearing - June 3, 2024 - Files B10, A11 & A12-2024

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Good afternoon,

Please find the Notice of Hearing for files: [CofA B10, A11, A12-2024](#) (note: link will expire Jun 4)

- B10-2024P: 594 River Road
- A11-2024P: 572 River Road
- A12-2024P: 594 River Road

Comments are due to Planning/Clerks by: **May 22, 2024.**

Should you have any questions or concerns, please contact Sarah Leach, Deputy Clerk via email sleach@pelham.ca.

Best regards,



Jodi Legros
Legislative and Committee Coordinator, Clerks Department
Town of Pelham
D: 905-980-6664 | E: jlegros@pelham.ca
T: 905-892-2607 x322
20 Pelham Town Square | PO Box 400 | Fonthill, ON | L0S 1E0

TOWN OF PELHAM CONFIDENTIALITY NOTICE

The information contained in this communication, including any attachments, may be confidential and is intended only for the use of the recipient(s) named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, disclosure, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please re-send this communication to the sender and permanently delete the original and any copy of it from your computer system. Thank you.



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

Monday, June 03, 2024

Minor Variance Application: A12-2024P

Municipal Address: 594 River Road
Legal Description: CON 14 PT LOT 11
Roll number: 2732 030 017 17300

Nature and Extent of Relief/ Permission Applied for:

The subject land is zoned Agriculture (A) and Environmental Protection Zone 1 (EP1) in accordance with Pelham Zoning By-law 4481(2022), as amended. Application is for relief to rectify zoning deficiencies as a result of a consent application B10-2024P. The applicant seeks relief from the following section(s) of the Zoning By-law:

1. **Section 5.1.3 "Minimum Lot Frontage"** – to permit a minimum lot frontage of 46.0m whereas the By-law requires a minimum lot frontage of 180.0m; and
2. **Section 5.1.3 "Minimum Lot Area"** – to permit a minimum lot area of 1729m² whereas the By-law requires a minimum lot area of 4000m²; and
3. **Section 5.1.3 "Maximum Lot Coverage"** – to permit a maximum lot coverage of 15% whereas the By-law permits a maximum lot coverage of 10%; and
4. **Section 5.1.4 "Maximum Lot Coverage Accessory Structures"** – to permit a maximum lot coverage for accessory structures of 7% whereas the By-law permits a maximum lot coverage accessory structures of 1%.

This application is being considered concurrently with Consent File B10-2024P and Minor Variance File A11-2024P.

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 (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.

According to the PPS, the lands are considered to be within a prime agricultural area. The permitted uses, among others, include agricultural/agricultural related uses, limited residential development and home occupations.

Both residential lots are serviced by individual on-site sewage and water services, consistent with PPS policy 1.6.6.4. On-site sewage and water services will not be impacted by the proposed consent and attached garage.

Provincial and Regional policies aim to protect agricultural land for long-term agricultural use. Specifically, Section 2.3 “Agriculture” of the PPS sets the policy framework for prime agricultural areas. Policy 2.3.6.1 permits limited non-agricultural uses in prime agricultural areas. Planning staff note that the properties are relatively small in area, are not farmed and are used as rural residential lots at this time.

Policy 2.3.4.2 indicates that lot adjustments in prime agricultural areas may be permitted for legal or technical reasons. The applicant has provided a Planning Justification Report which provides an opinion that the boundary adjustment application can be considered to be for a legal or technical reason. Planning staff concur with the report’s conclusion.

Policy 2.6.2 states that development and site alteration shall not be permitted on lands containing archaeological resources or archaeological potential unless the resources have been conserved. The Town’s Heritage Master Plan also identifies this area as having composite archaeological resource potential. An archaeological assessment was submitted with the application.

The proposed boundary adjustment involves lands that are being used as a rural residential lot, that is not conducive to farming. There are no anticipated impacts to surrounding agricultural uses as a result of the application.

Staff are of the opinion that the proposed variance 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 subject lands are impacted by the Region's Natural Environment System, consisting of the Welland River West Provincially Significant Wetland Complex, Other Woodland, and permanent/intermittent watercourse. The property is also partly mapped as part of the Provincial Natural Heritage System. As such, these features are considered Key Natural Heritage Features and/or Key Hydrologic Features.

Policy 4.2.2.3(a)(i) indicates that new development or site alteration will demonstrate that there are no negative impacts on key natural heritage features or key hydrologic features or their functions. The proposed boundary adjustment will not negatively impact key natural heritage features or hydrologic features or their functions. Regional environmental and NPCA staff have reviewed the applications and offered no objection subject to the requested conditions.

Staff are of the opinion that the proposed variance conforms with the policies of 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.

NOP Policy 4.1.4.3 requires that all development and uses include sustainable on-site private water supply and private sewage disposal systems. The existing septic system for 594 River Road is wholly contained on "Part 2" and that the proposed development will not remove any useable area for future replacement of the septic system from the retained lands. A septic inspection was conducted in October 2023. Staff note due to limited area on the site and environmental restrictions from the Welland River, staff note that the future replacement of the sewage system at 594 River Road will require the use of a holding tank rather than a standard in-ground septic bed.

Regional staff provided comment on the application which concluded the proposal is generally consistent with the Provincial Policy Statement and does not conflict with Provincial and Regional policies, and offered no objection.

As such, staff are of the opinion the variance conforms with the NOP.

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 local Official Plan designates the subject lands as 'Good General Agricultural' and 'Environmental Protection One EP1' according to Schedule 'A.' The purpose of the Good General Agricultural designation is to protect and maintain land suitable for agricultural production and permit uses which support and/or are compatible with agriculture. Planning staff note that the properties are relatively small in area, are not farmed and are considered to be rural residential lots at this time.

The lands designated Environmental Protection One (EP1) on Schedule A of the Town's OP are located along the shoreline of the Welland River along the southern boundary of the Subject Lands.

Town policy B3.7.4.2 requires a geotechnical report for lands within or adjacent to stable slopes. A geotechnical report was submitted with the application. It found the proposed attached garage would not negatively impact the stability of the slope and determined it would be setback 8-11 metres from the top of stable slope (i.e. stable top-of bank). Recommendations also address design and construction to ensure the stability of the slope is not negatively impacted by altering natural drainage and that vegetation on the slope is protected during construction and/or repaired/improved post-construction.

Policy D4.3 Archaeological Resources – states that Council recognizes that there are archaeological remnants of pre-contact and early historic habitation as well as archaeological potential areas within the Town. Council shall require archaeological assessments and the preservation or excavation of significant archaeological resources in accordance with Provincial guidelines, requirements, and protocols. An archaeological assessment was submitted with the application.

Section E1.5 states in making a determination of whether a variance is minor as required in Item Four, Committee will have more regard for the degree of impact which could result from the relief and less regard to the magnitude of numeric or absolute relief sought by the applicant. The applicant submitted a planning justification report with the application. Staff are satisfied the reasons detailed in the report are appropriate and agreed with its conclusions.

Town Planning staff are of the opinion the proposed variance conforms to the local Official Plan.

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

The lands are zoned Environmental Protection 1 under the Town's Zoning By-law. With respect to the zone boundaries, Section 1.5(b)(ii) states that EP1 zones *"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."

Staff acknowledge that the proposed boundary adjustment does not further fragment the features on site, and, therefore, offer no objection to the application from a natural heritage perspective. The lands can be considered to be zoned partly Agricultural.

The subject lands are zoned Agriculture (A) and Environmental Protection Zone 1 (EP1). Under the regulations of the Zoning By-law the minor variance application requests relief from:

1. **Section 5.1.3 "Minimum Lot Frontage"** – to permit a minimum lot frontage of 46.0m whereas the By-law requires a minimum lot frontage of 180.0m; and
2. **Section 5.1.3 "Minimum Lot Area"** – to permit a minimum lot area of 1729m² whereas the By-law requires a minimum lot area of 4000m²; and
3. **Section 5.1.3 "Maximum Lot Coverage"** – to permit a maximum lot coverage of 15% whereas the By-law permits a maximum lot coverage of 10%; and
4. **Section 5.1.4 "Maximum Lot Coverage Accessory Structures"** – to permit a maximum lot coverage for accessory structures of 7% whereas the By-law permits a maximum lot coverage accessory structures of 1%.

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.		Section 5.1.3 "Minimum Lot Frontage" Section 5.1.3 "Minimum Lot Area" Yes, the variances are minor in nature. The lands are considered a rural residential lot given their current use. There are six (6) contiguous residential lots found along River Road, with similar frontages and areas. The lands are considered a rural residential lot given their current residential use. No adverse impacts are anticipated to result from the requested relief.
		Section 5.1.3 "Maximum Lot Coverage" Yes, the variance is minor in nature. The increased coverage amounts to approximately 5% of the entirety of the lot. No negative impacts are anticipated on the adjacent properties as adequate distance separates the dwelling from the location of the addition to the dwelling on the neighbouring lot. Adequate yard setbacks will be maintained for access to the rear, drainage, and maintenance.
		Section 5.1.4 "Maximum Lot Coverage Accessory Structures"

	<p>Yes, the variance is minor in nature. The increased coverage amounts to approximately 6% of the lot area. Adequate yard setbacks will be maintained for access to the rear, drainage, and maintenance. There maintains adequate lot area for the sanitary system.</p>
<p>The variance is desirable for the development or use of the land.</p>	<p>Section 5.1.3 "Minimum Lot Frontage" Section 5.1.3 "Minimum Lot Area"</p> <p>Yes, the variances are desirable for the development or use of the land. The reduced lot frontage and area does not alter the sewage and water servicing arrangements or impact the ability to provide sustainable on-site sewage and water services. The variance will facilitate an appropriate development for the site.</p>
	<p>Section 5.1.3 "Maximum Lot Coverage" Section 5.1.4 "Maximum Lot Coverage Accessory Structures"</p> <p>Yes, the variance is desirable for the development or use of the land. The increase in lot coverage will maintaining adequate amenity area and space for access, maintenance, and drainage.</p>
<p>The variance maintains the general intent and purpose of the Zoning By-law.</p>	<p>Section 5.1.3 "Minimum Lot Frontage"</p> <p>Yes, the variance maintains the general intent and purpose of the Zoning By-law. The intent of a minimum lot frontage is to ensure adequate access to the street, in order to maintain safety, accessibility, and functionality. A secondary intent is to ensure consistency across the streetscape. Given the lot context, the variance is not anticipated to alter the streetscape in a significant way. Adequate frontage will remain for access and functionality of the site.</p>
	<p>Section 5.1.3 "Minimum Lot Area"</p> <p>Yes, the variance maintains the general intent and purpose of the Zoning By-law. The intent of a minimum lot area in the context of a rural residential lot is to ensure there is adequate space for private septic and water service, and to ensure drainage can be managed on site. The reduced lot area does not alter the sewage and water servicing arrangements or impact the ability to provide sustainable on-site sewage and water services. The variance will facilitate an appropriate development for the site.</p>
	<p>Section 5.1.3 "Maximum Lot Coverage" Section 5.1.4 "Maximum Lot Coverage Accessory Structures"</p> <p>Yes, the variance maintains the general intent and purpose of the Zoning By-law. The intent of the maximum lot coverage provision of the By-law is to maintain adequate space for landscaping, leisure, drainage, and to maintain neighbourhood streetscapes and compatibility.</p> <p>The increase in lot coverage is not anticipated to have any a negative impact with respect to the intent of the By-law.</p>
<p>The variance maintains the general intent and purpose of the Official Plan.</p>	<p>All variances</p> <p>Yes, the variances maintain the general intent and purpose of the Official Plan. The intent of the Official Plan through the Good General Agricultural</p>

	<p>designation is to protect and maintain land suitable for agricultural production and permit uses which support and/or are compatible with agriculture.</p> <p>The requested variance should have no impact on the agricultural viability of the surrounding area and will not compromise the objectives of the Official Plan, with respect to land use compatibility, storm water runoff and private sewage system servicing capabilities.</p> <p>The proposal is generally consistent in built form, scale, and massing with existing development and the character of the area.</p> <p>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 May 7, 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 will be required.
- Public Works Department
 - 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.
 - 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.
 - 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.
- Niagara Region Growth Management and Planning Division
 - The proposal is generally consistent with the Provincial Policy Statement and does not conflict with Provincial and Regional policies pertaining to consents in prime agricultural areas. As such, Regional Growth Management and Planning Division staff offer no objection to the application, provided the Town is satisfied that the boundary adjustment qualifies for legal or technical reasons.
- Niagara Peninsula Conservation Authority
 - The minor variance application indicates that relief is being sought to reduce the allowable lot frontage and lot area as well as to increase the allowable lot coverage and lot coverage for accessory structures.

- As the minor variance is to permit existing buildings and structures and to facilitate the proposed boundary adjustment, the NPCA can support minor variance application A12-2024P in principle.

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

Planning Staff Comments:

Based on the analysis given in above sections of this report, 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 A11/2024P **be approved** subject to the following condition(s):

THAT the applicant:

- That the approval of the minor variance is subject to Consent File B10/2024P obtaining final approval.
- 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.
- 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.
- 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.

Prepared and Submitted by:

Andrew Edwards, BES
Planner

Recommended by:

Shannon Larocque, MCIP, RPP
Senior Planner

Engineering Department Committee of Adjustment Report

For

**A12-2024P
594 River Road**

May 22, 2024

Town staff have reviewed the following documentation for the purpose of **A12-2024P – 594 River Road** consent application for:

The subject land is zoned Agriculture (A) and Environmental Protection Zone 1 (EP1) in accordance with Pelham Zoning By-law 4481(2022), as amended. Application is for relief to rectify zoning deficiencies as a result of a consent application B10-2024P. The applicant seeks relief from the following section(s) of the Zoning By-law:

Section 5.1.3 “Minimum Lot Frontage” – to permit a minimum lot frontage of 46.0m whereas the By-law requires a minimum lot frontage of 180.0m; and

Section 5.1.3 “Minimum Lot Area” – to permit a minimum lot area of 1729m² whereas the By-law requires a minimum lot area of 4000m²; and

Section 5.1.3 “Maximum Lot Coverage” – to permit a maximum lot coverage of 15% whereas the Bylaw permits a maximum lot coverage of 10%; and

Section 5.1.4 “Maximum Lot Coverage Accessory Structures” – to permit a maximum lot coverage for accessory structures of 7% whereas the By-law permits a maximum lot coverage accessory structures of 1%.

This application is being considered concurrently with Consent File B10-2024P and Minor Variance File A11-2024P.

Introduction:

The Subject Lands are municipally known as 594 River Road and 572 River Road and legally described as Part of Lot 11 Concession 14 Pelham in the Town of Pelham, Regional Municipality of Niagara. The Subject Lands are located on the south side of River Road in the Town of Pelham, approximately 100 metres east of Cream Street. 572 River Road abuts 594 River Road to the east. Both 572 and 594 River Road are located along the north bank of the Welland River, which delimits their southern extent. The Subject Lands slope downward to the Welland River, with each existing lot occupied by similar detached dwellings that are one-storey at the front and have walkout basements at their rear. A detached garage was constructed west of the existing dwelling at 594 River Road following the approval of Minor Variance application A21/2019P in November 2019.

Both 572 and 594 River Road are serviced by private water and septic systems.

This application is being considered concurrently with Consent File B10-2024P and Minor Variance File A11-2024P.

Analysis:**Proposed Site Plan**

See attached conditions below.

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 conditions:

- Please refer to conditions for B10-2024P – 594 River Road

To: Sarah Leach

Cc: Andrew Edwards

From: Belinda Menard, Building Inspector/Plans Examiner
Community Planning & Development

Date: May 22, 2024

Subject: Building Comments on Applications to the Committee of Adjustment for
Minor Variance hearing. – 594 River Road, Pelham
File Number: A12 - 2024P

Comment:

- A building permit will be required for this proposed Accessory Building, should the variance be granted.

Respectfully,
Belinda Menard, Dipl., Constr. Eng. Tech.
Building Inspector

Sarah Leach

Subject: RE: NPCA Response Regarding Notice of Hearing - June 3, 2024 - Files B10, A11 & A12-2024

From: Meghan Birbeck <mbirbeck@npca.ca>

Sent: Monday, May 27, 2024 10:05 AM

To: Jodi Legros <JLegros@pelham.ca>; Taran Lennard <tlennard@npca.ca>; Sarah Mastroianni <smastroianni@npca.ca>

Cc: Sarah Leach <SLeach@pelham.ca>

Subject: NPCA Response Regarding Notice of Hearing - June 3, 2024 - Files B10, A11 & A12-2024

Good morning Jodi,

As a follow up to my email from 8:44 this morning just now please see the NPCA's final comments below:

- B10-2024P: 594 River Road
 - The consent application indicates that a boundary adjustment, between 594 and 572 River Rd, is proposed to facilitate the construction of a future attached garage at 572 River Rd.
 - NPCA Policy indicates:
 - Lot additions and boundary adjustments may be supported where it has been demonstrated that there is sufficient room outside of the flood hazard to accommodate a building envelope, including space for servicing and amenities.
 - Lots created through Consent are to be setback from the long-term stable top of slope.
 - NPCA staff note that this is a boundary adjustment and not the creation of a new lot.
 - Additionally, technical staff have indicated that there will be sufficient room outside of the flood hazard to accommodate a building envelope, including space for servicing and amenities.
 - As such, the NPCA can support the proposed consent application in principle.
- A12-2024P: 594 River Road
 - The minor variance application indicates that relief is being sought to reduce the allowable lot frontage and lot area as well as to increase the allowable lot coverage and lot coverage for accessory structures.
 - As the minor variance is to permit existing buildings and structures and to facilitate the proposed boundary adjustment, the NPCA can support minor variance application A12-2024P in principle.
- A11-2024P: 572 River Road
 - The minor variance application indicates that relief is being sought to reduce the allowable lot frontage, lot area, front yard setback, and interior side yard setback as well as to increase the allowable lot coverage.

- Regarding the variances for lot frontage and lot area the NPCA understands that these requested variances are to facilitate the proposed boundary adjustment. As such the NPCA can offer support for the variances for lot frontage and lot area for minor variance application A11-2024P in principle.
- Regarding the variance for front yard setback, interior side yard setback, and lot coverage the NPCA understands that these variances are to facilitate a proposed attached garage addition. The subject property is impacted by an apparent valley. The application contained a *Slope Stability Assessment Proposed Garage and Breezeway 572 River Rd, prepared by Soil-Mat Engineers & Consultants Ltd., dated December 7, 2023*. The Slope Stability Assessment indicated that at the closest point the proposed garage and breezeway would have a setback of 8m to the identified long-term top of stable slope. NPCA policy requires new development outside of the settlement area to have a minimum setback of 7.5 metres from the stable top of slope. As the proposed development is projected to be setback greater than 7.5 m the NPCA can offer support for the variances related to the proposed garage development.
- Please note that the proposed garage is still proposed to be development in the NPCA regulated area and as such a work permit will be required from the NPCA. Additionally, during the pre-consultation that was held in August 2023 the NPCA requested the following information that has not been provided as part of the COA package, this information will need to come in at the time of work permit application:
 - Erosion and Sediment Control measures will need to be shown on the submitted site plan.
 - Clarification on the submitted site plan as to whether the “Approx Septic Bed” is existing or proposed.

Additionally, any future developments proposed on either 594 or 572 River Rd will need be circulated to the NPCA for review and approval and possible work permit.

Best,
Meghan



Meghan Birbeck (MS)
Watershed Planner

Niagara Peninsula Conservation Authority (NPCA)
3350 Merrittville Highway, Unit 9, Thorold, Ontario L2V 4Y6

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

From: [SHILLAKU Paul](#)
To: [Jodi Legros](#)
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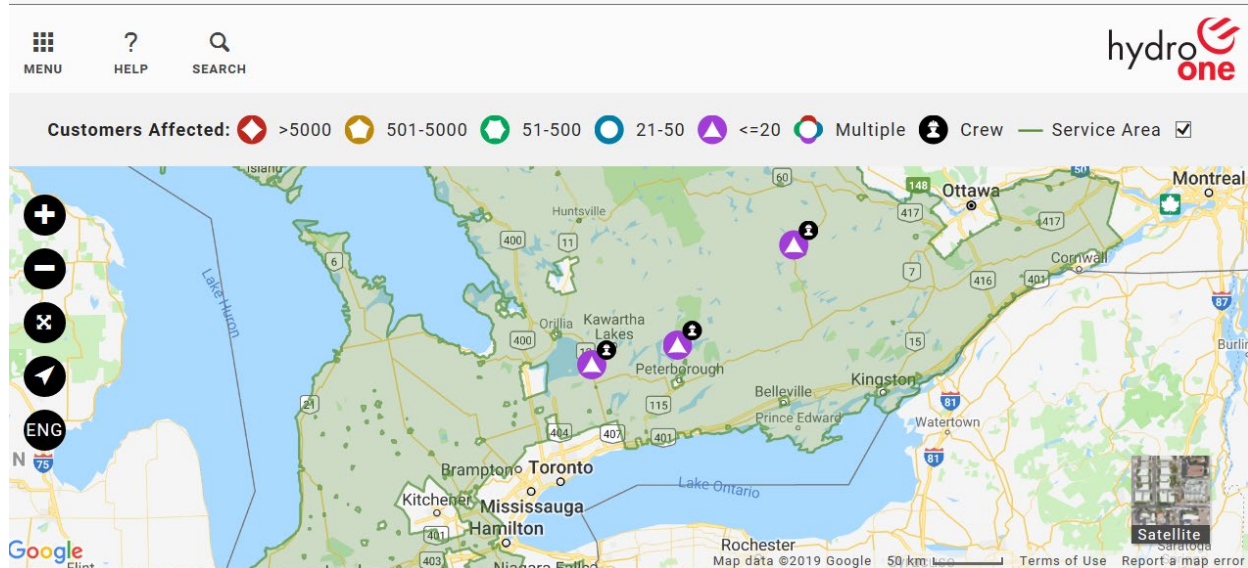
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Please let me know if you have any questions or concerns.

Thank you,

Dennis De Rango

Specialized Services Team Lead, Real Estate Department

Hydro One Networks Inc.

Tel: (905)946-6237

Email: Dennis.DeRango@HydroOne.com

From: Jodi Legros <Legros@pelham.ca>

Sent: Tuesday, May 7, 2024 1:34 PM

To: MR18Enquiry@mpac.ca; rowcentre@bell.ca; jim.sorley <jim.sorley@npei.ca>; Enbridge (MunicipalPlanning@enbridge.com) <MunicipalPlanning@enbridge.com>; LANDUSEPLANNING <LandUsePlanning@HydroOne.com>

Subject: Notice of Hearing - June 3, 2024 - Files B10, A11 & A12-2024

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Good afternoon,

Please find the Notice of Hearing for files: [CofA B10, A11, A12-2024](#) (note: link will expire Jun 4)

- B10-2024P: 594 River Road
- A11-2024P: 572 River Road
- A12-2024P: 594 River Road

Comments are due to Planning/Clerks by: **May 22, 2024.**

Should you have any questions or concerns, please contact Sarah Leach, Deputy Clerk via email sleach@pelham.ca.

Best regards,



Jodi Legros
Legislative and Committee Coordinator, Clerks Department
Town of Pelham
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TOWN OF PELHAM CONFIDENTIALITY NOTICE

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Committee of Adjustment**Minutes**

Meeting #: 05-2024
Date: Monday, May 6, 2024
Time: 4:00 pm
Location: Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

Members Present Brenda Stan
Isaiah Banach
John Cappa

Members Absent Colin McCann
Don Rodbard

Staff Present Sarah Leach
Andrew Edwards
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 John Cappa
Seconded By Brenda Stan

THAT the agenda for the May 6, 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 advised the Agent for B8-2024P has requested a deferral. Ms. Leach stated a revised notice of hearing will be circulated upon re-scheduling.

7. Applications for Minor Variance

7.1 A4-2024P(2) - 1313 Victoria Avenue

Purpose of the Application

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:

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

Representation

The Applicant Sherry Rusin was present.

Correspondence Received

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Niagara Region

Applicants Comments

No comments.

Public Comments

Ms. Leach, Secretary-Treasurer indicated she checked the clerks@pelham.ca email address at 4:08 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 John Cappa

That the public portion of the meeting be closed.

Carried

Member Comments

The Chair stated that the proposal is appropriate given the approval of the related variances in April 2024.

Moved By Brenda Stan

Seconded By John Cappa

Application A4-2024P(2) for relief of 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, is hereby: GRANTED

The above decision is based on the following reasons:

- 1. The variance is minor in nature as the agricultural character of the neighbourhood is not anticipated to be impacted through the reduced setback to the OFDU. As well, the lot area remains available to handle stormwater runoff and has adequate area for the OFDU to function.**
- 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 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 affect sightlines and to alter the character of the surrounding agricultural area.
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 decision is subject to the following conditions:

To the Satisfaction of the Director of Community Planning and Development

1. Enter into a site plan agreement with the Town of Pelham.

Carried

7.2 A8-2024 - 928 Foss Road

Purpose of the Application

Application for relief is made, to facilitate the construction of a new building. The applicant seeks relief from the following section(s) of the Zoning By-law: Section 3.17(a) "Minimum Distance Separation Requirements" – to permit a setback of 4.57m to an interior lot line whereas Minimum Distance Separation II (MDS II) regulations require a setback of 13m; and Section 5.1.2 "Zone Requirements for Agricultural Use" – to permit an interior side yard setback of 4.57m whereas the By-law requires a minimum side yard setback of 20m.

Representation

The Agent, Kim Hessels and the Applicant, Mitch Dyck were present.

Correspondence Received

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Niagara Region

Applicants Comments

A Member asked what was proposed. The Agent, Kim Hessels, stated the Applicant is seeking to build a second poultry barn, similar to the existing one. Ms. Hessels stated the proposed barn is sited to minimize impact. The Chair agreed the proposed location was appropriate.

Public Comments

Ms. Leach, Secretary-Treasurer indicated she checked the clerks@pelham.ca email address at 4:16 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 John Cappa

That the public portion of the meeting be closed.

Carried

Member Comments

No further comments were provided.

Moved By John Cappa

Seconded By Brenda Stan

Application A8-2024P for relief of Section 3.17(a) “Minimum Distance Separation Requirements” – to permit a setback of 4.57m to an interior lot line whereas Minimum Distance Separation II (MDS II) regulations require a setback of 13m, is hereby: GRANTED

The above decision is based on the following reasons:

1. The variance is minor in nature as no adverse impacts to sensitive land uses are 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 facilitates an expansion to an existing operation with the construction of a new barn.
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 5.1.2 “Zone Requirements for Agricultural Use” – to permit an interior side yard setback of 4.57m whereas the By-law requires a minimum side yard setback of 20m, is hereby: GRANTED

The above decision is based on the following reasons:

1. The variance is minor in nature as the proposed siting of the agricultural building reduces odour and visual impacts.
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 facilitates an expansion to an existing operation with the construction of a new barn.
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 following advisory clause be included with the Building Permit: "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."**

Carried

7.3 A9-2024P - 2 Pelham Town Square

Purpose of the Application

Application for relief is made, to facilitate the construction of a 5-storey mixed-use building. The applicant seeks relief from the following section(s) of the Zoning By-law:

Section 4.1.1 "Minimum Parking Requirements" – to permit a minimum number of vehicular parking spaces of 1.17 spaces per dwelling unit (55 spaces), whereas the By-law requires a minimum of 1.25 vehicular parking spaces per dwelling unit (59 spaces); and Section 4.1.1 "Minimum Parking Requirements" – to permit a minimum number of 1.35 parking spaces per 100m² gross leasable floor area "GLFA" (2 spaces), whereas the By-law requires a minimum of 3.25 parking spaces per 100m² GLFA (5 spaces); and Section 4.1.4.1(a) "Parking Space Dimensions and Requirements" – to permit a minimum vertical clearance of 2.5m for a parking space, whereas the By-law requires a minimum vertical clearance of 4.2m; and Section 4.3.1 "Minimum Bicycle Parking Requirements" – to permit a minimum of 0.25 short-term bicycle parking spaces per dwelling unit (12 spaces), whereas the By-law requires a minimum of 0.8 short-

term bicycle parking spaces per dwelling unit (38 spaces); and Section 8.3.1 “Town Square (TS) Permitted Uses” – to permit residential apartments located on and above the first floor, whereas the By-law does not permit residential apartments at grade; and Section 8.3.3 “Town Square (TS) Zone Requirements” – to permit a maximum retail frontage of 28m, whereas the By-law allows 12m; and Section 8.3.3 “Town Square (TS) Zone Requirements” – to permit a minimum of 35% first-floor glazing, whereas the By-law requires a minimum of 50% first-floor glazing; and Section 8.3.3 “Town Square (TS) Zone Requirements” – to permit a maximum building height of 20.5m for a Landmark Site, whereas the By-law permits a maximum building height of 20m.

Representation

The Agent, Sydney DiTomaso was present.

Correspondence Received

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

Applicants Comments

The Agent, Sydney DiTomaso provided a presentation to further explain the application. A copy is on file with the Secretary-Treasurer.

A Member asked for an explanation on the building height variance request as the Zoning By-law requirement appears to be met. Ms. DiTomaso stated the request is precautionary in case the floor's thickness triggers the variance requirement during the permit phase.

The Chair asked if any existing policies relate to the replacement of existing buildings to be demolished. Andrew Edwards, Town Planner, confirmed there is not.

The Chair expressed pleasure in supporting the application.

Public Comments

Ms. Leach, Secretary-Treasurer indicated she checked the clerks@pelham.ca email address at 4:36 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 John Cappa
Seconded By Brenda Stan

That the public portion of the meeting be closed.

Carried

Member Comments

A Member stated that it was clear the Town had done its due diligence with the analysis of the proposal.

Moved By Brenda Stan
Seconded By John Cappa

Application A9-2024P for relief of Section 4.1.1 “Minimum Parking Requirements” – to permit a minimum number of vehicular parking spaces of 1.17 spaces per dwelling unit (55 spaces), whereas the By-law requires a minimum of 1.25 vehicular parking spaces per dwelling unit (59 spaces), is hereby: GRANTED

The above decision is based on the following reasons:

- 1. The variance is minor in nature as each of the 47 residential units will have a dedicated parking space, with seven (7) additional spaces that can be dedicated for visitor parking, or additional spaces for a certain unit. In addition, the commercial parking spaces can be used as visitor spaces outside of business hours.**
- 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 the residential and commercial spaces are synergistic from a parking perspective as they have differing peak parking demands at different times of the**

day. This allows for more efficient use of spaces and ultimately a reduced parking supply that avoids an oversupply.

- 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.**
- 7. The Applicant understands that the sidewalk on Pelham Town Square is to remain open at all times.**
- 8. The Applicant understands no contractor shall park in municipal parking lots and no construction hoarding shall occur on Town property.**

Application for relief of Section 4.1.1 “Minimum Parking Requirements” – to permit a minimum number of 1.35 parking spaces per 100m² gross leasable floor area “GLFA” (2 spaces), whereas the By-law requires a minimum of 3.25 parking spaces per 100m² GLFA (5 spaces), is hereby: GRANTED

The above decision is based on the following reasons:

- 1. The variance is minor in nature given the relatively small commercial GFA and the availability of public parking in the vicinity of the site (e.g., Town Hall parking lot).**
- 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 the residential and commercial spaces are synergistic from a parking perspective as they have differing peak parking demands at different times of the day. This allows for more efficient use of spaces and ultimately a reduced parking supply that avoids an oversupply.**
- 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.
7. The Applicant understands that the sidewalk on Pelham Town Square is to remain open at all times.
8. The Applicant understands no contractor shall park in municipal parking lots and no construction hoarding shall occur on Town property.

Application for relief of Section 4.1.4.1(a) “Parking Space Dimensions and Requirements” – to permit a minimum vertical clearance of 2.5m for a parking space, whereas the By-law requires a minimum vertical clearance of 4.2m; is hereby: GRANTED;

The above decision is based on the following reasons:

1. The variance is minor in nature as it is greater than the minimum requirement of the Ontario Building Code.
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 as it will enable design flexibility and eliminate excessive height of the structure for parking areas.
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.
7. The Applicant understands that the sidewalk on Pelham Town Square is to remain open at all times.
8. The Applicant understands no contractor shall park in municipal parking lots and no construction hoarding shall occur on Town property.

Application for relief of Section 4.3.1 “Minimum Bicycle Parking Requirements” – to permit a minimum of 0.25 short-term bicycle parking spaces per dwelling unit (12 spaces), whereas the By-law requires a minimum of 0.8 short-term bicycle parking spaces per dwelling unit (38 spaces), is hereby: GRANTED

The above decision is based on the following reasons:

- 1. The variance is minor in nature as within the context, the requirement for 0.8 short-term bicycle parking spaces is excessive.**
- 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 adequate short-term spaces will be provided, and allow for better use of space, including more opportunities for enhanced landscaping along Pelham Town Square in the form of tree plantings.**
- 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.**
- 7. The Applicant understands that the sidewalk on Pelham Town Square is to remain open at all times.**
- 8. The Applicant understands no contractor shall park in municipal parking lots and no construction hoarding shall occur on Town property.**

Application for relief of Section 8.3.1 “Town Square (TS) Permitted Uses” – to permit residential apartments located on and above the first floor, whereas the By-law does not permit residential apartments at grade, is hereby: GRANTED

The above decision is based on the following reasons:

1. The variance is minor in nature as the residential uses at grade have frontage along Peace Park, which are not anticipated to detract from the active retail frontage along Pelham Town Square. The development will maintain an active streetscape along Pelham Town Square for pedestrians.
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 permitting residential uses at grade will contribute to the housing stock of downtown Fonthill. Permitting at grade residential dwelling units is not anticipated to detract from the commercial unit along the frontage of the site.
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.
7. The Applicant understands that the sidewalk on Pelham Town Square is to remain open at all times.
8. The Applicant understands no contractor shall park in municipal parking lots and no construction hoarding shall occur on Town property.

Application for relief of Section 8.3.3 “Town Square (TS) Zone Requirements” – to permit a maximum retail frontage of 28m, whereas the By-law allows 12m, is hereby: GRANTED

The above decision is based on the following reasons:

1. The variance is minor in nature as from a visual perspective, the variance is not anticipated to detract from the streetscape in a negative way. The unit will maintain a high degree of glazing, contributing to a pedestrian-friendly and inviting façade as viewed from the public right of 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 foster an active street presence, with the use of glazing and shallow setback to the property line.
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.
7. The Applicant understands that the sidewalk on Pelham Town Square is to remain open at all times.
8. The Applicant understands no contractor shall park in municipal parking lots and no construction hoarding shall occur on Town property.

Application for relief of Section 8.3.3 “Town Square (TS) Zone Requirements” – to permit a minimum of 35% first-floor glazing, whereas the By-law requires a minimum of 50% first-floor glazing, is hereby: GRANTED

The above decision is based on the following reasons:

1. The variance is minor in nature as the site building design will facilitate an active streetscape along Pelham Town Square. Higher storeys maintain a generous percentage of glazing.
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 as currently, the existing building does not have a high degree of glazing.
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.
7. The Applicant understands that the sidewalk on Pelham Town Square is to remain open at all times.
8. The Applicant understands no contractor shall park in municipal parking lots and no construction hoarding shall occur on Town property.

Application for relief of Section 8.3.3 “Town Square (TS) Zone Requirements” – to permit a maximum building height of 20.5m for a Landmark Site, whereas the By-law permits a maximum building height of 20m, is hereby: GRANTED

The above decision is based on the following reasons:

1. The variance is minor in nature as the increase in height is not anticipated to have significant impacts on neighbouring land uses and is generally in character with surrounding land uses. As well, shadowing is mostly contained to public and private parking spaces, as well as the public right of 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 the increased height is not anticipated to result in a built form that is inappropriate for the lands, and will allow for design flexibility should changes to the grade be necessary.
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.
7. The Applicant understands that the sidewalk on Pelham Town Square is to remain open at all times.

8. **The Applicant understands no contractor shall park in municipal parking lots and no construction hoarding shall occur on Town property.**

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**
2. **That the applicant apply for and enter into a site plan agreement with the Town to the satisfaction of the Director of Community Planning and Development.**
3. **To the Satisfaction of the Director of Public Works**
4. **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.**
5. **Submit a comprehensive stormwater management report demonstrating that the drainage neither relies, nor negatively impacts neighbouring properties, to the satisfaction of the Director of Public Works, or designate.**
6. **Obtain approval for a Driveway Entrance & Culvert Permit, as applicable, issued through the Public Works department, to Town standards. The applicant shall bear all costs associated with these works.**
7. **That the applicant enter into an encroachment agreement with the Town to the satisfaction of the Director of Public Works.**

Carried

8. Applications for Consent

8.1 B8-2024P - Summersides Village, Port Robinson Road - Part of Lot 167, Part of Lots 17, 18, 19 on Plan 717, 2024-0095-Planning

File B8-2024P was deferred to a future meeting.

9. Minutes for Approval

Moved By Brenda Stan

Seconded By Isaiah Banach

THAT the Committee of Adjustment minutes dated April 02, 2024, be approved.

Carried

10. Adjournment

The hearing was adjourned at 4:40 pm.

Moved By John Cappa

Seconded By Brenda Stan

BE IT RESOLVED THAT this Meeting of the Committee of Adjustment be adjourned until the next regular meeting scheduled for June 3, 2024, at 4:00 p.m.

Carried

Isaiah Banach, Chair

Sarah Leach, Secretary-Treasurer