



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

Tuesday, July 02, 2024

**Minor Variance Application: A13-2024P**

**Municipal Address: 304 Welland Road**  
**Legal Description: Part Lot 6, Concession 10**  
**Roll number: 2732 020 013 16300**

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

The subject land is located on the south side of Welland Road, lying west of Effingham Street, being Part of Lot 6, Concession 10, in the Town of Pelham.

The subject land is zoned Specialty Agriculture (SA) in accordance with Pelham Zoning By-law 4481(2022), as amended. Application for relief is made, to facilitate the construction of a covered porch.

The applicant seeks relief from the following section(s) of the Zoning By-law:

- a) **Section 5.2.3 "Maximum Lot Coverage"** – to permit a maximum lot coverage of 13.5% whereas the Bylaw allows a maximum lot coverage of 10%.

For context, the existing dwelling was damaged by fire. The owners submitted a building permit application to repair the dwelling. As part of the scope of work the owners are proposing to construct a new covered porch. With the addition of the covered porch, the property exceeds the maximum permitted lot coverage of 10%.

The parcel has approximately 30 metres of frontage and is 1,857 m<sup>2</sup> in area. Surrounding land uses include rural residential development and agricultural uses. The parcel is privately serviced, with the septic tank located to the front of the dwelling.

**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)

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.

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 identifies this area as having high archaeological resource potential. Notwithstanding the site displays potential, the area of the covered porch has been disturbed. As such, staff will waive the requirement for an archaeological assessment.

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

The Provincial Policy Statement (PPS) designates the subject land within the ‘Prime Agricultural Area’ and more specifically within a Specialty Crop Area. The permitted uses (among others) include: agricultural / agricultural related uses, limited residential development and home occupations.

The proposed minor variance will permit an addition to an existing single detached dwelling and is in keeping with the policies of the PPS.

#### Greenbelt Plan (2017)

The lands are in the “Niagara Peninsula Tender Fruit and Grape Area” designation within the Protected Countryside Designation of the Greenbelt Plan.

Section 3.1.2 (Specialty Crop Area Policies) states that for lands falling within *specialty crop areas* of the *Protected Countryside* all types, sizes and intensities of agricultural uses and *normal farm practices* shall be promoted and protected.

Planning staff note that the property is 1,857.14 m<sup>2</sup> in land area and is an existing lot used for residential use. The use is not changing as a result of the application.

Staff are of the opinion that the proposed variance does not conflict with the Greenbelt Plan.

#### Growth Plan for the Greater Golden Horseshoe (2020)

This Plan informs decision-making regarding growth management and environmental protection in the Greater Golden Horseshoe (GGH). All decisions made after May 16, 2019, that affect a planning matter will conform to this Growth Plan, subject to any legislative or regulatory provisions providing otherwise. The policies of this Plan take precedence over the PPS to the extent of any conflict.

The lands are within the Prime Agricultural Area in the Provincial Agricultural System. Prime agricultural areas, including specialty crop areas are intended to be protected for long term agricultural use. The existing residential use of the lands is not proposed to change as a result of the application.

Accordingly, Staff is of the opinion that the proposed variance is in keeping 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. The Region's Official Plan designates the lands as within the Speciality Crop Area of the Region's Agricultural Land Base. Regional policies aim to protect agricultural land for the long-term. Existing residential uses are supported in the Specialty Crop Area designation.

Furth, Regional staff commented on the application and provided no objection to the proposal. Town Staff is satisfied that the proposed development is in keeping with the purpose and intent of the Region of Niagara Official Plan.

#### Town of Pelham Official Plan (2014)

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

The local Official Plan designates the subject lands 'Specialty Agricultural' according to Schedule 'A.' The purpose of the Specialty Agricultural designation is to implement the Greenbelt Plan and to recognize the importance of croplands. Single detached dwellings are a permitted use in the Specialty Agricultural designation.

In making a determination of whether a variance is minor, 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 impact of the proposed variances is minimal.

Section E1.5 states in part:

... applicants who request a minor variance should be prepared to demonstrate a need for the requested relief on the basis that the subject zoning provision is not warranted in a particular circumstance, causes undue hardship, or is otherwise impossible to comply with.

Planning staff note that the property is 1,857.14 m<sup>2</sup> in land area and is used for residential purposes. Adequate area and building setbacks are available to manage the drainage from the addition of the covered porch without adversely impacting adjacent properties and that no concerns exist with respect to private servicing. The existing residential use on the subject property is permitted.

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

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

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

Minor Variance Test	Test Response/Explanation
The variance is minor in nature.	<p><b>Section 5.2.3 "Maximum Lot Coverage"</b></p> <p>Yes, the variance is minor in nature. No negative impacts are anticipated on the adjacent properties in terms of drainage, visual impacts or with respect to private servicing. Adequate yard setbacks will be maintained. The covered porch is relatively small in area in comparison to the lot area. The increased coverage amounts to approximately 3.5% of the entirety of the lot. As such, staff are of the opinion the variance is minor in nature.</p>
The variance is desirable for the development or use of the land.	<p><b>Section 5.2.3 "Maximum Lot Coverage"</b></p> <p>Yes, the variance is desirable for the development or use of the land. The increase in lot coverage is desirable as it will facilitate the construction of an appropriate addition to the existing dwelling and expand the amenity area through the addition of a covered porch. The covered porch is not anticipated to have a negative impact on the ability of the site to maintain adequate drainage or private servicing. As such, staff are of the opinion the variance is desirable.</p>
The variance maintains the general intent and purpose of the Zoning By-law.	<p><b>Section 5.2.3 "Maximum Lot Coverage"</b></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 private servicing to maintain compatibility and ensure protection of health and the environment. Further the use is permitted in the SA zone.</p> <p>The increase in lot coverage for accessory structures is not anticipated to have any a negative impact on space for landscaping, leisure, drainage or private servicing.</p>

	As such, staff are of the opinion the variance maintains the general intent and purpose of the Zoning By-law.
The variance maintains the general intent and purpose of the Official Plan.	<p><b>Section 5.2.3 "Maximum Lot Coverage"</b></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>

**Agency and Public Comments:**

On May 30, 2024 a notice of public hearing was circulated by the Secretary Treasurer of the Committee of Adjustment to applicable agencies, Town departments, and to all assessed property owners within 60 metres of the property’s boundaries.

To date, the following comments have been received:

- Building Division
  - A Building permit is required for the construction of the requested front porch, should variance be granted.
- Public Works Department
  - No comments.
- Niagara Region Growth Management and Planning Division
  - Archaeological Resources - The subject property falls within the Region’s mapped area of archaeological potential, as identified on Schedule ‘K’ of the Niagara Official Plan (NOP). Provincial and Regional policies state that development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved or the land has been investigated and cleared or mitigated following clearance from the Province.
  - Regional staff note that the Town of Pelham has a Heritage Master Plan. As such, Town staff should be satisfied that any local archaeological provisions / requirements have been met. Should the Town require an archaeological assessment for the proposed development, staff request

that all applicable reports and a Ministry letter of acknowledgement are circulated to the Region.

- Private Servicing - No sewage system permit was found for the existing sewage bed on the property; however, the septic tank was replaced in 2019 and approved by the Region's Private Sewage System department. According to the permit, the septic bed is located in the rear yard and the proposed porch is in the front yard and will not encroach on the existing sewage system or add in sewage flows. Therefore, based on the information submitted, Region staff offer no objection to the application from a private servicing perspective.

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

### **Planning Staff Comments:**

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

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

The applicant is advised of the potential for archaeological resources and the requirement to notify the appropriate government ministries should archaeological remains/resources or human remains be encountered during construction.

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 A13/2024P **be approved** subject to the following condition(s):

**THAT** the applicant:

- That all necessary building permits be acquired prior to construction commencing, to the satisfaction of the Chief Building Official.

### **Prepared and Submitted by:**

Andrew Edwards, BES  
Planner

### **Recommended by:**

Shannon Larocque, MCIP, RPP  
Senior Planner