

## **Committee of Adjustment AGENDA**

### **Committee of Adjustment Hearing 3/2015**

Tuesday, June 02, 2015

Start time 4:00 PM

Town of Pelham Municipal Building - Council Chambers

### **AGENDA**

1. **Attendance**
2. **Call to Order, Declaration of Quorum and Introduction of Committee and Staff**
3. **Disclosure of Pecuniary Interest and General Nature Thereof**
4. **Requests for Withdrawal or Adjournment**
5. **Files B1/2015P and B2/2015 - Lawrence Overbeeke**
  - 5.1. **Town of Pelham Consolidated Planning Reports, B1/2015P and B2/2015P**
  - 5.2. **Regional Municipality of Niagara - B1/2015P and B2/2015P**
  - 5.3. **L & J Sztogryn re B1/2015P & B2/2015P**
  - 5.4. **McCollum re B1/2015P and B2/2015P**
6. **Adjournment**



May 28, 2015

Mrs. Nancy J. Bozzato, Secretary Treasurer  
Committee of Adjustment  
Town of Pelham  
Fonthill, ON L0S 1E0

Dear Mrs. Bozzato:

**Re: Consent Application B1/2015P (Lawrence Overbeeke)  
691 Canboro Road, Pelham  
Part Lot 3, RP59M-101  
Roll No. 273201001417201**

**Disclaimer:** Planning staff have prepared this report in absence of comments from the Department of Corporate Services, Niagara Peninsula Conservation Authority (NPCA) and Niagara Region Planning and Development Services. Comments from these agencies and departments will be provided under a separate cover. This report shall be considered in conjunction with the comments from the agencies and departments noted above.

The subject application is for consent for the conveyance of 1,114 square metres (11,991 ft<sup>2</sup>) of land for single detached residential use (Part 3).

1,236 square metres (13,304 ft<sup>2</sup>) of land (Part 1) with a dwelling known municipally as 691 Canboro Road, is to be retained for continued residential use (refer to Appendix 1). The effective purpose of the consent application is to create a new single-detached residential lot (Part 3). Consent Application No. B2/2015P relating to Part 2 on the attached survey sketch is being considered concurrently via a separate consent application.

The subject parcel, shown as Part 3 on the attached survey sketch, proposes 18 metres of frontage on the north side of Canboro Road, east of Balfour Street, being part of Lot 3, RP59M-101, in the Town of Pelham. The subject lands are located within the urban boundary of Fenwick.

### **Applicable Planning Policies**

#### Provincial Policy Statement (2014)

The subject parcel is located in the 'Settlement Area' according to the Provincial Policy Statement (PPS), 2014. According to Policy 1.1.3.1, settlement areas shall be the focus of growth and development, and their vitality and regeneration shall be promoted.

Policy 1.1.3.6 states that new development taking place in designated growth areas should occur adjacent to the existing built-up area and shall have a compact form, mix of uses and densities that



allow for the efficient use of land, infrastructure and public service facilities.

### Greenbelt Plan

The subject parcel is located outside of the Greenbelt Plan Area and its policies are not applicable to this application.

### Regional Official Plan (Consolidated 2014)

The Regional Official Plan, 2014, designates the subject parcel as 'Urban Area Boundary – Built-up Area'. Policy 4.G.7.2 states that 'Urban Areas' will be the focus of the Region's long term growth and development. Policy 11.A.2 states that the Region encourages the development of attractive, well designed residential development.

Policy 4.C.2.1 states that each municipality will develop and implement through its local Official Plan and other supporting documents, a strategy and policies for promoting intensification. Policy 4.C.2.1 also states that local Official Plans shall encourage intensification throughout the built-up area.

### Town of Pelham Official Plan (2014)

The Town's Official Plan, 2014, designates the subject parcel as 'Urban Living Area/Built Boundary'.

According to Policy D5.2.1, any new lots created by consent for any purpose requires the Committee of Adjustment to be satisfied that the proposed lot:

- a) Fronts on and will be directly accessed by a public road that is maintained on a year-round basis;
- b) Will not cause a traffic hazard as a result of its location on a curve or a hill;
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
- e) Will not have a negative impact on the drainage patterns in the area;
- f) Will not affect the develop ability of the remainder of the lands, if they are designated for development by this Plan;
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
- h) Conforms with Regional lot creation policy as articulated in the Regional Official Plan; and
- i) Complies with the appropriate provincial Minimum Distance Separation Formulae, where applicable.

### Town of Pelham Zoning By-law No. 1136 (1987), as amended

The subject parcel is zoned 'Residential Village 1' (RV1) according to Zoning By-law No. 1136 (1987), as amended. The 'Residential Village 1' zone permits the use of the land for one single detached dwelling on one lot and uses, buildings and structures accessory thereto; and, home occupations.

Additionally, Section 6.13 of the Zoning By-law states that no person shall, within any residential zone or commercial zone, except as provided for in the 'Residential Village 1' (RV1) zone or 'Rural Commercial' (RC) zone, erect, alter or use any building or structure unless such lot is serviced by a public water supply and sanitary sewer system.

From the Department of



**Community Planning  
& Development**

### Planning Staff Comments

According to the application and attached survey sketch, Part 1 contains one single detached two-storey dwelling, while Part 3 contains three (3) accessory buildings (1 barn and 2 sheds). The existing accessory buildings will be removed, as per the attached survey sketch (refer to Appendix 1). Both Part 1 (retained portion) and Part 3 (severed portion) will be utilized for single detached residential purposes.

The subject parcel is surrounded by similar single-detached dwellings to the north, south, east and west sides.

With respect to the Official Plan, under Policy D.5.2.1, the retained and severed portion of the subject parcel will front on and will be directly accessed from Canboro Road. In addition, the site does not pose a traffic hazard as there are no visibility concerns due to topography.

Planning staff is of the opinion that the newly created lot conforms to the provisions of the Town's Zoning By-law, provided that the lot can be serviced with appropriate water supply and means of sewage disposal. The Department of Public Works and Niagara Region Planning and Development Services will address servicing requirements and drainage. The approval of this application shall be subject to any conditions imposed by the Department of Public Works and Niagara Region Planning and Development Services.

The subject application will not affect the develop ability of the remainder of the lands and conforms with the Regional lot creation policy as articulated in the Regional Official Plan. In addition, the provincial Minimum Distance Separation Formulae is not applicable to this application.

Planning Staff note that the Niagara Peninsula Conservation Authority's (NPCA) Niagara Natural Environment Information Mapping Screening Area (NNEIMSA) affects the southern portion of the parcel, which fronts on Canboro Road. The NPCA will provide comments regarding the environmental features on the subject property. The approval of this application shall be subject to any conditions imposed by the NPCA.

Any future development on the severed parcel will be subject to a building permit application. As such, future development must comply with the requirements of the Town's Zoning By-law, Ontario Building Code and all applicable law.

On May 1<sup>st</sup>, 2015, a notice was circulated by the Secretary Treasurer of the Committee of Adjustment to agencies directly affected by the proposed application including internal Town departments (i.e. Public Works and Utilities, Building, Fire) and all assessed property owners within 60 metres of the property's boundaries (refer to Appendix 2).

To date, the following comments have been received:

- Building Division
  - No issues or objections to the application (refer to Appendix 3).
- Department of Public Works (refer to Appendix 4)



- The proposed lot does not front on an existing Town of Pelham sanitary gravity sewer main.
- The proposed lot fronts on an existing Town of Pelham drinking water main:
  - As a condition of the severance, it is suggested that the owner confirm that no existing water or sewer services branch from or through the remaining parcel to other lands.
  - As a condition of the severance, it is suggested that any request to connect to an existing Town of Pelham drinking water main shall be managed through the building permit process, subject to review by the Water Department, considering such factors as length of service, or cross-connections to existing wells.
- The Niagara Peninsula Conservation Authority's (NPCA) Niagara Natural Environment Information Mapping Screening Area (NNEIMSA) overlaps onto the proposed lot.

Additionally, two comments have been received by the public:

- Larry & Jane Sztorgryn (refer to Appendix 4) comments, dated May 21, 2015, are not in approval of the application for the following reasons:
  - 691 Canboro Road is not being used as a single family dwelling. The dwelling houses multiple non-related persons;
  - Potential environmental concerns due to past uses/activities that occurred on the subject property. These uses include motor vehicle body work and repair, and the operation of an illegal landscaping business that stored fertilizers and other chemicals on site;
  - Traffic concerns due to the number of driveways located along Canboro Road between Sunset Street and Balfour Street;
  - A potential decrease in property value due to the creation of smaller lots;
  - The subject application is setting a precedent for the creation of smaller lots within the area; and,
  - Does not meet the intent of the Official Plan and is incompatible with surrounding lots.

Under the Planning Act, a municipality cannot pass a by-law that has the effect of distinguishing between persons who are related and persons who are unrelated in respect of the occupancy or use of a building or structure or part of a building or structure, including the occupancy or use as a single housekeeping unit.

The Town has no record of any environmental concerns associated with the subject property. Additionally, the Town's By-law Services Department has confirmed that there are no outstanding issues or violations against the subject property.

Planning staff are of the opinion that there will not be any adverse impacts on traffic due to the number of driveways located along Canboro Road between Sunset Street and Balfour Street. There appears to be sufficient space between driveways and the subject property is not located within close proximity to any major intersections.

Planning staff cannot comment on the potential decrease in property value (if any) as a result of this application.

Furthermore, the newly created parcel conforms with the size requirements of the Zoning By-law and is consistent with the lot creation policy in the Town and Regional Official Plans. Any proposed development will be subject to a building permit application and must conform with the requirements of the Zoning By-law, Ontario Building Code and all other applicable law.

- Joe McCollum (refer to Appendix 5) comments, dated May 22, 2015, include the following:
  - Mr. McCollum expressed concern regarding a row of mature 9.1 metre (30 feet) high pine trees running along the west side of his property adjacent to 691 Canboro Road;
  - Mr. McCollum also expressed concern regarding the size of the two newly created lots. Although the new lots conform to the requirements of the Town's Zoning By-law, Mr. McCollum is concerned that the sizes of the new lots are not consistent with the character of the surrounding area; and,
  - Finally, Mr. McCollum is concerned about the drainage in the area with the creation of a new lot. According to Mr. McCollum, there is already a problem with drainage on Canboro Road, which requires the Town's Public Works Department to drain the roadway after every heavy rainfall.

Planning staff note that the row of mature trees are located entirely within the boundaries of Mr. McCollum's property. As such, the trees shall not be removed to accommodate future development on the newly created lot (Part 3). Additionally, lots located west of Balfour Street and East of Sunset Drive are similar in size to the Parts 1 and 3 on the attached survey sketch (refer to Appendix 1). Drainage concerns will be addressed by the Department of Public Works.

Planning staff are of the opinion that the application for consent to sever is consistent with the Provincial and Regional policy for redevelopment in a settlement area. Furthermore, the proposed consent to sever complies with the general intent and purpose of the Zoning By-law and Official Plan, provided that the newly created lot is serviced by a public water supply and sanitary sewer system. The approval of the application for consent to sever shall be subject to the following conditions:

- The lot is serviced by a public water supply and sanitary sewer system;



- The owner shall confirm to the Department of Public Works that no existing water or sewer services branch from or through the remaining parcel to other lands; and,
- Any request to connect to an existing Town of Pelham drinking water main shall be managed through the building permit process, subject to review by the Water Department, considering such factors as length of service, or cross-connections to existing wells.

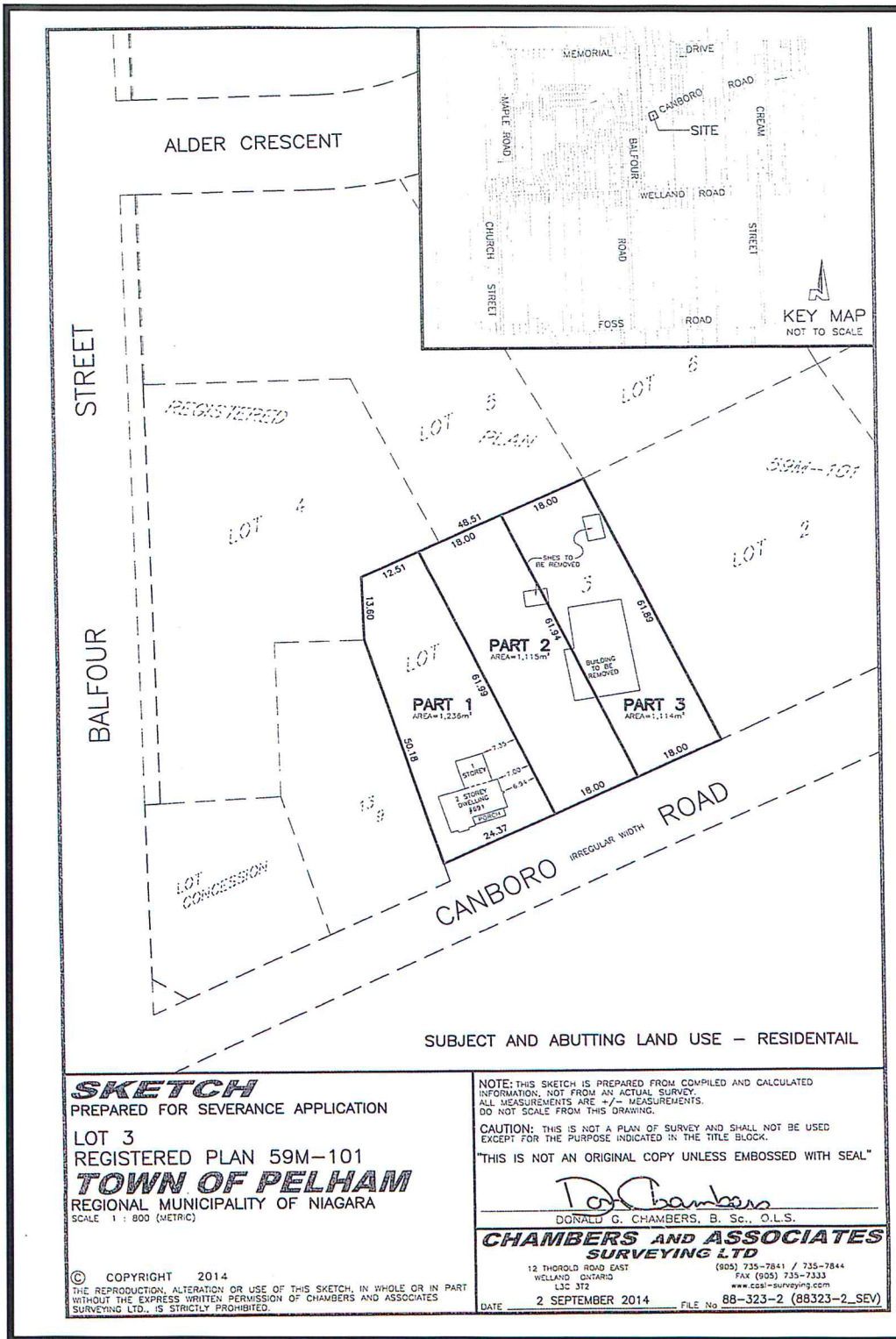
Additionally, the approval of the application for consent to sever shall be subject to any additional conditions imposed by the Department of Corporate Services, Niagara Peninsula Conservation Authority (NPCA) and Niagara Region Planning and Development Services

Submitted by,







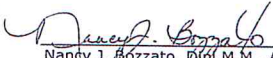

Andrew Gameiro  
Planner

Appendix 1: Submitted Site Drawing





Appendix 2: Public Notice

	
In the matter of the Planning Act; Revised Statutes of Ontario, 1990, Chapter P. 13 and; In the matter of an application for consent on behalf of:	
<div style="border: 1px solid black; padding: 5px; text-align: center;"> <b>NOTICE OF PUBLIC HEARING</b> </div>	<b>WHAT:</b> <b>FILE B1/2015P</b> <b>WHO:</b> <b>LAWRENCE OVERBEEKE</b> Part Lot 3, RP59M-101 691 Canboro Road, Pelham
	<b>WHEN:</b> <b>TUESDAY JUNE 2, 2015 at 4:00 p.m.</b>
	<b>WHERE:</b> Town of Pelham Municipal Building, Council Chambers 20 Pelham Town Square, Fonthill, Ontario
	Notice is hereby given that an application for consent under the above noted file number will be heard by the Committee of Adjustment for the Town of Pelham on the date and at the time and place shown above.
	<b>LOCATION OF THE LANDS AND PURPOSE OF THIS APPLICATION:</b> The subject parcel, shown as Part 3 on the drawing submitted, has 18 metres frontage on the north side of Canboro Road, lying east of Balfour Street, being part of Lot 3, RP59M-101, in the Town of Pelham. Application is made for consent to convey 1114 square metres of land for single detached residential use. 1236 square metres of land (Part 1) with a dwelling known municipally as 691 Canboro Road, is to be retained for continued residential use. Application B2/2015P relating to Part 2 on the drawing is being considered concurrently.
 Information	<b>WHAT IS THIS?</b> This is a public hearing called for the purpose of hearing evidence for, or in opposition to, the above noted application. If you are aware of any person interested in or affected by this application who has not received a copy of this notice you are asked to inform that person of this hearing. If you have comments on this application they may be forwarded in writing to the Secretary-Treasurer at the address above or you may appear in person or by counsel and make a verbal presentation to the Committee.
 HAVE YOUR SAY	<b>YOUR INPUT IS ENCOURAGED! WE ARE LISTENING!</b> <i>The Committee would appreciate receiving your written comments regarding this application by May 21, 2015. If the Secretary-Treasurer does not receive your comments by this date, it may be presumed you have no objection to the proposal. Should an extension be required, please contact the Secretary-Treasurer. Unless indicated otherwise, personal information and all comments will become part of the public record and may be publicly released.</i> The applicant or the authorized agent of the applicant <b>MUST</b> be present at the hearing. Take notice that if you do not attend at this hearing, the Committee may proceed in your absence and you will not be entitled to any further notice in the proceedings.
 NEED MORE INFORMATION? CONTACT US!	<b>TOWN OF PELHAM COMMITTEE OF ADJUSTMENT</b> 20 Pelham Town Square, P. O. Box 400 Fonthill, Ontario L0S 1E0 (905) 892-2607, ext. 315 Fax: (905) 892-5055 Toll Free: 1-866-271-0391 E-Mail: <a href="mailto:NJBozzato@pelham.ca">NJBozzato@pelham.ca</a>  Dated this 1 <sup>st</sup> day of May 2015 Nancy J. Bozzato, Dip. M.M., AMCT Town Clerk / Secretary-Treasurer
 Legal Notice	<b>IMPORTANT INFORMATION!</b> If you wish to be notified of the decision of the Committee of Adjustment (Committee) in respect of this application, you must submit a written request to the Secretary-Treasurer at the address indicated above. This will also entitle you to be advised of a possible Ontario Municipal Board (OMB) Hearing. Even if you are the successful party, you should request a copy of the decision since the Committee decision may be appealed to the OMB by the applicant or another member of the public. If a person or public body that files an appeal of a decision of the Committee in respect of the proposed application does not make written submissions to the Committee before it gives or refuses to give a provisional consent or relief, the OMB may dismiss the appeal.
Town of Pelham Committee of Adjustment	

From the Department of



**Appendix 3: Building Department Comments**



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Date May 28, 2015

To Andrew Gameiro  
Planner

From Mike Zimmer CBO

RE: Comments regarding Consent Applications B1/2015P and B2/2015P

I have reviewed the proposed Consent Applications B1/2015P and B2/2015P

I do not have any issues with these applications

Mike Zimmer  
CBO



20 Pelham Town Square P.O. Box 400 - Fonthill, ON L0S 1E0 p: 905.892.2607 f: 905.892.5055  
[pelham.ca](http://pelham.ca)



Appendix 4: Department of Public Works Comments



Vibrant - Creative - Caring

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DATE: May 29, 2015  
TO: Nancy J. Bozzato  
CC:  
FROM: Andrea Clemencio, Director of Public Works & Utilities  
RE: Committee Of Adjustment, File B1 2015P and B2 2015P  
Lawrence Overbeeke  
691 Canboro Road

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We have completed the review of the consent applications B1 2015P and B2 2015P related to conveyance of 1114 m<sup>2</sup> and 1115m<sup>2</sup> respectively, for single detached residential use as per the details in the applications.

Public Works has the following comments:

- The proposed lots do not front existing Town of Pelham sanitary gravity sewer main.
- The proposed lots front existing Town of Pelham drinking water main:
  - o A condition of severance is suggested that the owner confirm no existing water or sewer services branch from or through the proposed lots to other lands, and from or through the remaining parcel to other lands.
  - o A condition of severance is suggested that any request to connect to existing Town of Pelham drinking water main shall be managed through the Building Permit process, subject to review by the Water Department, considering such factors as length of service, or cross-connections to existing wells.
- Niagara Peninsula Conservation Authority environmental area overlaps onto the proposed lots.



20 Pelham Town Square P.O Box 400 · Fonthill, ON L0S 1E0 p: 905.892.2607 f: 905.892.5055  
[pelham.ca](http://pelham.ca)



## Appendix 5: Larry & Jane Sztogryn Comments

Larry & Jane Sztogryn

Town of Pelham Committee of Adjustment  
20 Pelham Town Square, P.O. Box 400  
Fonthill, Ontario L0S 1E0

May 21, 2015

Attention: Nancy J. Bozzato, Dipl.M.M., AMCT  
Town Clerk / Secretary – Treasurer

Re: FILE B1 / 2015P and FILE B2 / 2015P  
LAWRENCE OVERBEEKE Part Lot 3, RP59M-101  
691 Canboro Road, Pelham (also known as lot 3 ALDER ESTATES)

#1 – 691 is not currently being used as a “single family dwelling” as per the Land Transfer Tax Act

Instructions #3. Extract of clause 1(1) (ja) of the Act:

(ja) “single family residence” - attached excerpt of instructions provided

– definition of “single family residence” is also described in the Municipal Act and Town of Pelham by-laws

Questions: Will the residence now located at 691 Canboro Road be returned to single family unit or be retained as a multi person dwelling as it exists currently?

Mr. Overbeeke does not reside at 691 Canboro Road so the “rooming house” designation in the Town of Pelham by-laws does not apply.

Will “single family” proposed lots also house multiple non related persons?

#2 – Has an environmental study been done on this property? If not will one be required under supervision of the Town of Pelham zoning department?

This property contains the original barn that was associated with the orchard that is now Alder Estates. Oil, coolant, diesel fuel, sprays, fertilizer and other potentially hazardous contaminants could still be present on these lands from that operation.

When Mr. Overbeeke acquired ownership he operated his lawn spraying/fertilizing business from the same barn before our residency in 1988 and continuously until approx. 2013. Strict regulations regarding the storage and handling of lawn sprays and fertilizers were not in place until recently when they were then seen as a detriment to the environment and harmful to persons. That means a lot of unregulated years went by on this property even prior to Mr. Overbeeke’s ownership.

Vehicle body work, spray painting of vehicles, oil changes etc. regularly took place on the proposed lands to be severed. Drums and sprayers on the backs of trucks were regularly washed out at the back of the barn onto the ground and residuals could be present in the soil. Chemicals were stored and mixed daily for years on this property. It would only be by testing the soil to find if it is safe for development if allowed to sever. If the barn is removed will that soil be tested when the permit is applied for to demolish the barn and sheds? Under that area could be even worse because the enclosure that now safely contains these contaminants will allow them to transfer to the surrounding area once the barn is removed and soil disturbed. This barn is elevated higher than our property and liquids travel down, our property is directly in line to

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Larry & Jane Sztogryn

receive the contaminated ground water run off. When the sheds are removed will that area also be inspected by the MOE because the sheds contained multiple fuel tanks, without protective leak preventing enclosures, that when removed will allow the ground to become saturated and also generate toxic run off of hazardous waste. This run off could migrate into surrounding basements and affect our indoor air quality. The only way to be sure is to test and remove contaminated soil and hazardous waste lumber generated from the disturbance of the barn and sheds. The MOE stated that the Town of Pelham should have acted on this property years ago and not allowed it to continue unregulated.

The commercial lawn spaying and fertilizing business, "Lawrences Lawn Care Ltd", was carried out illegally for in excess of 25 years on this property as it is zoned residential. The Town of Pelham never responded to the complaints and concerns about the business on this property. The address of the lawn care operation is at his home on Balfour Street but he actually stored his trucks, chemicals, etc. at this location on Canboro Road unregulated for years until 2013 when he then moved this operation to 1560 Balfour Street. To be a home based business Mr. Overbeek has to live at the address and not have employees or use auxiliary buildings. Mr. Overbeeke had employees and was operating out of an auxiliary building (the barn and sheds). This was a commercial operation and should not have been allowed to continue in a residential area.

Has an Ontario "Risk Assessment" been performed on Lot #3 under 2.1 pages #2 of the Ontario Environmental Protection Act? If severed will these lots be registered as "Brownfields" in Ontario for redevelopment if contamination is found? In the "About Brownfields" definition we believe this property falls into the category described leaving contaminated soil. This will also affect surrounding property values. Under 2.4 page #3 will the Town of Pelham be assisting Lot #3 Alder Estates to meet site condition standards?

It is buyer beware once the new owner disturbs the soil and his cost to remediate if Mr. Overbeeke is not required by the Town to act. If new owners are not told of Lot #3's history this may leave the Town of Pelham liable due to it's knowledge of previous operations at this address.

#3 – Has a traffic impact study taken place or consideration been given to the addition of two more driveways onto Canboro Road? If allowed this will place 16 proposed driveways on the stretch between Sunset and Balfour Streets.

When we purchased our residence, Lot 1 Alder Estates, in 1988 we did so because of the low density of one acre lots. Alder Estates was designed for one acre lots and when purchasing a home in a planned survey/subdivision containing one acre lots you do not expect that down the road they will chop off pieces disregarding the impact on other residents. Lot #3's now 60.37 meters adjusted to 18 meter lots will clearly devalue my property as it is only one residence away from the proposals. If allowed to proceed there are many lots in Alder Estates that would lend themselves to severance if precedent is set with these small parcels. The creation of smaller lots means building of smaller homes. This was not part of the original vision and plan for Alder Estates. If other properties within Alder Estates follow to sever sections off this means smaller homes tucked into side and back yards that will devalue all homes in the entire subdivision. Our homes are on septic systems without sewer lines on this side of the street.

The majority of the homes within Alder Estates have the original owners still residing in them. This is an area with a stable population that purchased here because of the larger lots and the privacy that the larger lots provide. We have no fences between properties and respect the privacy of each other. This quiet ambiance can not be maintained if lots are shrunk down by residents looking to maximize the return on their investment because they no longer live here and respect the original intent of the planned subdivision (one acre lots).

2

Larry & Jane Sztogryn

Mr. Overbeeke has not resided in Alder Estates in over 25 years, has continually rented out the house and ran his illegal lawn spraying business from the barns and auxiliary buildings. To our knowledge there has never been a variance obtained to allow the commercial lawn spraying business with employees to operate from an auxiliary building at 691 Canboro Road. Land which has been zoned single family residential since Alder Estates was created.

We do not believe that the intent of "Town of Pelham Official Plan" dated March 11, 2014 outlining Urban Area Residential Intensification (B1.1.3 page 17 & 18) allows for what Mr. Overbeeke intends to do. "While the intensification opportunities will be encouraged proponents will be expected to demonstrate, through the provision of detailed site plans and elevation plans, that such proposals will be respectful of, compatible with and designed to be integrated with the community or neighborhood where they are proposed" and (B1.2.4.1 page 28 Residential and Mixed Use Intensification). Has this application been looked at by the Zoning department? If so have all the recommendations and studies been completed or what is the timeline to do so? Will residents affected be provided with copies of the results?

Town of Pelham Official Plan B1.1.3 g) "The Town will consider Conditional Zoning Amendments". If so will the reports be provided to residents prior to approval or denial of Mr. Overbeeke's applications? Mr. Overbeeke is using the minimum 18.0 meter frontage used in B1.6.2.2. In the Policies section d) it states that it may be subject to the Site Plan Control provision of the Planning Act. What controls if any will be put in place for construction of homes after the lots are severed?

There is no shortage of lots for development in the immediate area at this time to justify approval to infill Alder Estates. In fact there are three large subdivision projects on hold in the immediate area of 691 Canboro Road. There are lots across the street from 691 Canboro Road that remain unsold. The new house built directly across the street from 691 Canboro Road, constructed by T. Hinan, was only completed after the bare foundation had been sitting idle for a number of years and was at risk of being ordered to be removed by the Town if not built on.

We would like to go on record as objecting to the proposal and want to be notified of the decision of the Committee of Adjustment in respect of these two applications to sever one property into three.

We would also request to go on record at this time to be informed of the results of any environmental testing that has been performed or will be performed on 691 Canboro Road that could directly affect the value and safety of our property.

Thank You



Larry & Jane Sztogryn

## Instructions

SINGLE FAMILY  
DWELLING

Where any transferee (other than a joint tenant) is taking less than the whole interest in the property being acquired, then the percentage ownership of each such transferee must be clearly indicated beside his/her respective name.

2. (i) It should be noted that if all *deponents* are not entitled to mark the same square in paragraph 1 of the Affidavit, then more than one Affidavit will be required. Only those deponents who are entitled to mark the same square in paragraph 1 may swear the same Affidavit.

(ii) This Affidavit is required to be made by each transferee named in the conveyance, by each person in trust for whom the land conveyed in the conveyance described is being conveyed and by each trustee named in the conveyance to whom the land is conveyed.

(iii) However, any of the transferees may have the Affidavit made on his behalf by an agent authorized in writing to make the Affidavit or by his solicitor. (See clause (d) of paragraph 1 of Affidavit.)

(iv) The Affidavit for a transferee that is a corporation may be made by its President, Vice President, Manager, Secretary, Director or Treasurer. (See clause (e) of paragraph 1 of Affidavit.)

(v) Where transferees are married to each other, either spouse may make the Affidavit on behalf of him/herself and the other. (See clause (f) of paragraph 1 of Affidavit.)

3. Extract of clause 1(1)(ja) of the Act:

- (ja) "single family residence" means,  
(i) a unit or proposed unit under the Condominium Act, or  
(ii) a structure or part of a structure,

that is designed for occupation as the residence of one family, including dependants or domestic employees of a member of the family, whether or not rent is paid for the occupation of any part of such residence, and whether or not the land on which the residence is situated is zoned for residential use, and "single family residence" includes any such residence that is to be constructed as part of the arrangement relating to a conveyance of land, but does not include any such residence constructed or to be constructed on agricultural land where the transferor with respect to the land conveyed meets the eligibility requirements for a farm tax reduction rebate contained in clause 4(b) or (c) of Ontario Regulation 716/83 made under the Ministry of Agriculture and Food Act.

4. Note: Subsection 1(3) provides, *inter alia*, that an individual shall be considered to be "ordinarily resident in Canada" if, at the time the expression is being applied, he has sojourned in Canada during the next preceding twenty-four months for a period of, or periods the aggregate of which is 366 days or more.

Extract of clauses 1(1)(f) and (g) of the Act:

- (f) "non-resident corporation" means a corporation incorporated, formed or otherwise organized in Canada or elsewhere,  
(i) that has allotted and issued shares to which are attached 50 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation and that are owned by one or more non-resident persons, but this subclause does not apply where it is established to the satisfaction of the Minister that such one or more non-

the corporation and that subclause (v) does not apply to the corporation,

(iii) one-half or more of the directors of which, or of the persons occupying the position of director by whatever name called, are individuals who are non-resident persons,

(iv) without share capital and one-half or more of the members of which are non-resident persons,

(v) that is controlled directly or indirectly by one or more non-resident persons, including a non-resident corporation within the definition contained in the provisions of this clause other than this subclause,

(vi) one-quarter or more of the paid-up capital of which is held by a non-resident person or by that person and one or more persons who are associates of that person and who are themselves non-resident persons,

(vii) one-half or more of the paid-up capital of which is held by one or more non-resident persons,

(viii) that would be required on dissolving, winding up, or any other distribution that is not a dividend, to distribute one-quarter or more of its surplus to a non-resident person or to that person and one or more persons who are associates of that person and who are themselves non-resident persons, or

(ix) that would be required on dissolving, winding-up, or any other distribution of surplus that is not a dividend, to distribute one-half or more of its surplus to one or more non-resident persons.

- (g) "non-resident person" means,

(i) an individual who is not ordinarily resident in Canada or who, if ordinarily resident in Canada, is neither a Canadian citizen nor an individual who has been lawfully admitted to Canada for permanent residence in Canada,

(ii) a partnership, syndicate, association or other organization of whatsoever kind of which one-half or more of the members are non-resident persons within the meaning of subclause (i), (iii) or (iv) or in which interests representing in value 50 per cent or more of the total value of the property of such partnership, syndicate, association or other organization are beneficially owned by non-resident persons within the meaning of subclause (i), (iii) or (iv),

(iii) a trust in which non-resident persons within the meaning of subclause (i), (ii) or (iv) have 50 per cent or more of the beneficial interests in the corpus of the trust or in the income arising therefrom, and "trust" includes the trustees under such a trust in their capacity as the trustees thereof, or

(iv) a non-resident corporation.

5. Insert the name and place of residence - or in the case of a corporation, the place of incorporation - of any transferee who is a non-resident person. If space is insufficient, attach a list of those transferees who are non-resident persons. If none of the transferees is non-resident, insert "none".

Note: Where the person named in the instrument as grantee is taking title on behalf of another person(s), the residency status to be recited must be that of the person or persons who are the beneficial owners of the land - not that of the grantee named in the instrument. This applies regardless of whether the trustee or nominee capacity of the grantee named in the instrument is indicated on the instrument.

6. Explain purpose of transfer: natural love and affection, pursuant to court order, separation agreement, etc.



From the Department of

Community Planning  
& Development

## Appendix 6: Joe McCollum Comments

**Andrew Gameiro**

**From:** Nancy Bozzato  
**Sent:** May-25-15 8:37 AM  
**To:** Andrew Gameiro; Julie Hannah  
**Subject:** FW: File B1/2015P and B2/2015P 691 Canboro Road, Pelham



innovative • creative • caring

**Nancy Bozzato, Dipl.M.M.**  
 Town Clerk  
 Administration Services  
 e: [njbozzato@pelham.ca](mailto:njbozzato@pelham.ca)  
 p: 905.892.2607 x315  
 pelham.ca

20 Pelham Town Square  
 P.O. 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 it to the sender and permanently delete the original and any copy of it from your computer system. Thank you.

**From:** Joe [REDACTED]  
**Sent:** Friday, May 22, 2015 4:49 PM  
**To:** Nancy Bozzato  
**Subject:** File B1/2015P and B2/2015P 691 Canboro Road, Pelham

Nancy

In regard to the applications noted above for 691 Canboro Road, I would like to make the following comments and I trust that you would pass them on to the Planning Department and the Public Works Department for use in their deliberations in this matter:

1. I live at 687 Canboro Road and have a row of mature 30 foot high pine trees running along the west side of my property adjacent to 691 Canboro. I would like to keep these trees "as they are" which could be a problem for a house built close to the property line on a 18 metre lot.
2. I understand from the Planning Dept that these 2 18 metre lots conform to the minimum lot width allowed under the current zoning but in my opinion they do not conform to the larger sized surrounding lots. All the lots on Alder Crescent and most of the nearby lots on Canboro Road are much larger. These narrow lots would be completely out of character in this area.
3. I am concerned about the drainage in the area with the creation of these new lots. There already is a problem with drainage on Canboro Road south of my house that requires Public Works to drain the roadway after every heavy rain. On the south side of the road all the drainage is to the north onto my lot and the nearby houses on Alder Crescent. It would not make any sense to make this any worse.

1





I hope that these comments will be discussed by the Committee of Adjustment when they make their decision in regard to these applications.

Thank you,  
Joe McCollum





May 28, 2015

Mrs. Nancy J. Bozzato, Secretary Treasurer  
Committee of Adjustment  
Town of Pelham  
Fonthill, ON L0S 1E0

Dear Mrs. Bozzato:

**Re: Consent Application B2/2015P (Lawrence Overbeeke)  
691 Canboro Road, Pelham  
Part Lot 3, RP59M-101  
Roll No. 273201001417201**

**Disclaimer:** Planning staff have prepared this report in absence of comments from the Department of Corporate Services, Niagara Peninsula Conservation Authority (NPCA) and Niagara Region Planning and Development Services. Comments from these agencies and departments will be provided under a separate cover. This report shall be considered in conjunction with the comments from the agencies and departments noted above.

The subject application is for consent for the conveyance of 1,115 square meters (12,001.76 ft<sup>2</sup>) of land for single detached residential use (Part 2).

1,236 square meters (13,304 ft<sup>2</sup>) of land (Part 1) with a dwelling known municipally as 691 Canboro Road, is to be retained for continued residential use (refer to Appendix 1). The effective purpose of the consent application is to create a new single detached residential lot (Part 2). Consent Application No. B1/2015P relating to Part 3 on the attached survey sketch is being considered concurrently via a separate consent application.

The subject parcel, shown as Part 2 on the attached survey sketch, proposes 18 metres of frontage on the north side of Canboro Road, east of Balfour Street, being part of Lot 3, RP59M-101, in the Town of Pelham. The subject lands are located within the urban boundary of Fenwick.

### **Applicable Planning Policies**

#### Provincial Policy Statement (2014)

The subject parcel is located in the 'Settlement Area' according to the Provincial Policy Statement (PPS), 2014. According to Policy 1.1.3.1, settlement areas shall be the focus of growth and development, and their vitality and regeneration shall be promoted.

Policy 1.1.3.6 states that new development taking place in designated growth areas should occur adjacent to the existing built-up area and shall have a compact form, mix of uses and densities that allow for the efficient use of land, infrastructure and public service facilities.



### Greenbelt Plan

The subject parcel is located outside of the Greenbelt Plan Area and its policies are not applicable to this application.

### Regional Official Plan (Consolidated 2014)

The Regional Official Plan, 2014, designates the subject parcel as 'Urban Area Boundary – Built-up Area'. Policy 4.G.7.2 states that 'Urban Areas' will be the focus of the Region's long term growth and development. Policy 11.A.2 states that the Region encourages the development of attractive, well designed residential development.

Policy 4.C.2.1 states that each municipality will develop and implement through its local Official Plan and other supporting documents, a strategy and policies for promoting intensification. Policy 4.C.2.1 also states that local Official Plans shall encourage intensification throughout the built-up area.

### Town of Pelham Official Plan (2014)

The Town's Official Plan, 2014, designates the subject parcel as 'Urban Living Area/Built Boundary'.

According to Policy D5.2.1, any new lots created by consent for any purpose requires the Committee of Adjustment to be satisfied that the proposed lot:

- a) Fronts on and will be directly accessed by a public road that is maintained on a year-round basis;
- b) Will not cause a traffic hazard as a result of its location on a curve or a hill;
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
- e) Will not have a negative impact on the drainage patterns in the area;
- f) Will not affect the develop ability of the remainder of the lands, if they are designated for development by this Plan;
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
- h) Conforms with Regional lot creation policy as articulated in the Regional Official Plan; and
- i) Complies with the appropriate provincial Minimum Distance Separation Formulae, where applicable.

### Town of Pelham Zoning By-law No. 1136 (1987), as amended

The subject parcel is zoned 'Residential Village 1' (RV1) according to By-law No. 1136 (1987), as amended. The 'Residential Village 1' zone permits the use of the land for one single detached dwelling on one lot and uses, buildings and structures accessory thereto; and, home occupations.

Additionally, Section 6.13 of the Zoning By-law states that no person shall, within any residential zone or commercial zone, except as provided for in the 'Residential Village 1' (RV1) zone or 'Rural Commercial' (RC) zone, erect, alter or use any building or structure unless such lot is serviced by a public water supply and sanitary sewer system.

### Planning Staff Comments

According to the application and attached survey sketch, Part 1 contains one single detached two-storey dwelling, while Part 2 contains one (1) accessory building (shed). The existing accessory building will be removed, as per the attached survey sketch (refer to Appendix 1). Both Part 1 (retained portion) and Part 2 (severed portion) will be utilized for single detached residential purposes.

The subject parcel is surrounded by similar single-detached dwellings to the north, south, east and west sides.

With respect to the Official Plan, under Policy D.5.2.1, the retained and severed portion of the subject parcel will front on and will be directly accessed from Canboro Road. In addition, the site does not pose a traffic hazard as there are no visibility concerns due to topography.

Planning staff is of the opinion that the newly created lot conforms to the provisions of the Town's Zoning Bylaw, provided that the lot can be serviced with appropriate water supply and means of sewage disposal. The Department of Public Works and Niagara Region Planning and Development Services will address servicing requirements and drainage. The approval of this application shall be subject to any conditions imposed by the Department of Public Works and Niagara Region Planning and Development Services.

The subject application will not affect the develop ability of the remainder of the lands and conforms with the Regional lot creation policy as articulated in the Regional Official Plan. In addition, the provincial Minimum Distance Separation Formulae is not applicable to this application.

Planning Staff note that the Niagara Peninsula Conservation Authority's (NPCA) Niagara Natural Environment Information Mapping Screening Area (NNEIMSA) affects the southern portion of the parcel, which fronts on Canboro Road. The NPCA will provide comments regarding the environmental features on the subject property. The approval of this application shall be subject to any conditions imposed by the NPCA

Any future development on the severed parcel will be subject to a building permit application. As such, future development must comply with the requirements of the Town's Zoning By-law, Ontario Building Code and all applicable law.

On May 1<sup>st</sup>, 2015, a notice was circulated by the Secretary Treasurer of the Committee of Adjustment to agencies directly affected by the proposed application including internal Town departments (i.e. Public Works and Utilities, Building, Fire) and all assessed property owners within 60 metres of the property's boundaries (refer to Appendix 2).

To date, the following comments have been received:

- Building Division
  - No issues or objections to the application (refer to Appendix 3).
- Department of Public Works (refer to Appendix 4)



- The proposed lot does not front on existing Town of Pelham sanitary gravity sewer main.
- The proposed lot fronts on an existing Town of Pelham drinking water main:
  - As a condition of the severance, it is suggested that the owner confirm that no existing water or sewer services branch from or through the remaining parcel to other lands.
  - As a condition of the severance, it is suggested that any request to connect to an existing Town of Pelham drinking water main shall be managed through the building permit process, subject to review by the Water Department, considering such factors as length of service, or cross-connections to existing wells.
- Niagara Peninsula Conservation Authority's (NPCA) Niagara Natural Environment Information Mapping Screening Area (NNEIMSA) overlaps onto the proposed lot.

Additionally, two comments have been received by the public:

- Larry & Jane Sztorgryn (refer to Appendix 5) comments, dated May 21, 2015, are not in approval of the application for the following reasons:
  - 691 Canboro Road is not being used as a single family dwelling. The dwelling houses multiple non-related persons;
  - Potential environmental concerns due to past uses/activities that occurred on the subject property. These uses include motor vehicle body work and repair, and the operation of an illegal landscaping business that stored fertilizers and other chemicals on site;
  - Traffic concerns due to the number of driveways located along Canboro Road between Sunset and Balfour Streets;
  - A potential decrease in property value due to the creation of smaller lots;
  - The subject application is setting a precedent for the creation of smaller lots within the area; and,
  - Does not meet the intent of the Official Plan and is incompatible with surrounding lots.

Under the Planning Act, a municipality cannot pass a by-law that has the effect of distinguishing between persons who are related and persons who are unrelated in respect of the occupancy or use of a building or structure or part of a building or structure, including the occupancy or use as a single housekeeping unit.

The Town has no record of any environmental concerns associated with the subject property. Additionally, the Town's By-law Services Department has confirmed that there are no outstanding issues or violations against the subject property.

Planning staff are of the opinion that there will not be any adverse impacts on traffic due to the number of driveways located along Canboro Road between Sunset Street and Balfour Street. There appears to be sufficient space between driveways and the subject property is not located within close proximity to any major intersections.

Planning staff cannot comment on the potential decrease in property value (in any) as a result of this application.

Furthermore, the newly created parcel conforms with the size requirements of the Zoning By-law and is consistent with the lot creation policy in the Town and Regional Official Plans. Any proposed development will be subject to a building permit application and must conform with the requirements of the Zoning By-law, Ontario Building Code and all other applicable law.

- Joe McCollum (refer to Appendix 6) comments, dated May 22, 2015, include the following:
  - Mr. McCollum expressed concern regarding a row of mature 9.1 metre (30 feet) high pine trees running along the west side of his property adjacent to 691 Canboro Road.
  - Mr. McCollum also expressed concern regarding the size of the two newly created lots. Although the new lots conform to the requirements of the Town's Zoning By-law, Mr. McCollum is concerned that the sizes of the new lots are not consistent with the character of the surrounding area.
  - Finally, Mr. McCollum is concerned about the drainage in the area with the creation of a new lot. According to Mr. McCollum, there is already a problem with drainage on Canboro Road, which requires the Town's Public Works Department to drain the roadway after every heavy rainfall.

Planning staff note that the row of mature trees are located entirely within the boundaries of Mr. McCollum's property. As such, the trees shall not be damaged or removed to accommodate future development on the newly created lot (Part 3). Additionally, lots located west Balfour Street and East of Sunset Drive are similar in size to the Parts 1 and 3 on the attached survey sketch (refer to Appendix 1). Drainage concerns will be addressed by the Department of Public Works.

Planning staff is of the opinion that the application for consent to sever is consistent with the Provincial and Regional policy for redevelopment in a settlement area. Furthermore, the proposed consent to sever complies with the general intent and purpose of the Zoning By-law and Official Plan, provided that the newly created lot is serviced by a public water supply and sanitary sewer system. The approval of the application for consent to sever shall be subject to the following conditions:

- The lot is serviced by a public water supply and sanitary sewer system;
- The owner shall confirm to the Department of Public Works that no existing water or sewer services branch from or through the remaining parcel to other lands; and,
- Any request to connect to an existing Town of Pelham drinking water main shall be managed through the building permit process, subject to review by the Water Department, considering such factors as length of service, or cross-connections to existing wells.

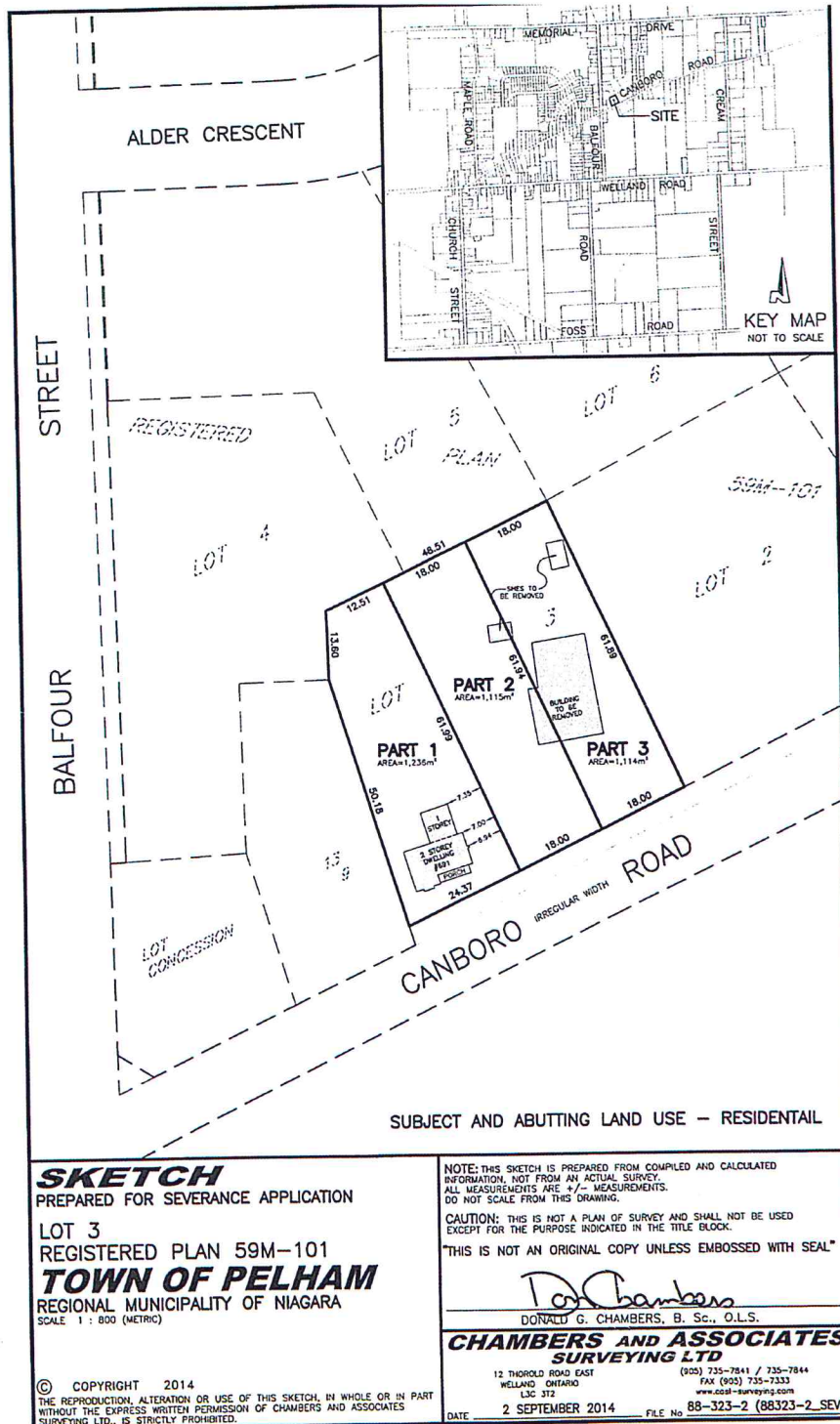
Additionally, the approval of the application for consent to sever shall be subject to any additional conditions imposed by the Department of Corporate Services, Niagara Peninsula Conservation Authority (NPCA) and Niagara Region Planning and Development Services.

Submitted by,








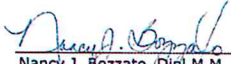

Andrew Gameiro  
Planner

Appendix 1: Submitted Site Drawing





Appendix 2: Public Notice

	
In the matter of the Planning Act; Revised Statutes of Ontario, 1990, Chapter P. 13 and; In the matter of an application for consent on behalf of:	
	<b>WHAT:</b> <b>FILE B2/2015P</b> <b>WHO:</b> <b>LAWRENCE OVERBEEKE</b> Part Lot 3, RP59M-101 691 Canboro Road, Pelham
	<b>WHEN:</b> <b>TUESDAY JUNE 2, 2015 at 4:00 p.m.</b>
	<b>WHERE:</b> Town of Pelham Municipal Building, Council Chambers 20 Pelham Town Square, Fonthill, Ontario
	Notice is hereby given that an application for consent under the above noted file number will be heard by the Committee of Adjustment for the <b>Town of Pelham</b> on the date and at the time and place shown above.
<b>LOCATION OF THE LANDS AND PURPOSE OF THIS APPLICATION:</b> The subject parcel, shown as <b>Part 2*</b> on the drawing submitted, has 18 metres frontage on the north side of Canboro Road, lying east of Balfour Street, Part Lot 3, RP59M-101, in the Town of Pelham. <b>Revised to reflect Part 2 as the subject parcel.</b>  Application is made for consent to convey 1,115 square metres of land for single detached residential use. 1,236 square metres of land (Part 1) with a dwelling known municipally as 691 Canboro Road, is to be retained for continued residential use. Application B1/2015P relating to Part 1 is being considered concurrently.	
Information 	<b>WHAT IS THIS?</b> This is a public hearing called for the purpose of hearing evidence for, or in opposition to, the above noted application. If you are aware of any person interested in or affected by this application who has not received a copy of this notice you are asked to inform that person of this hearing. If you have comments on this application they may be forwarded in writing to the Secretary-Treasurer at the address above or you may appear in person or by counsel and make a verbal presentation to the Committee.
	<b>YOUR INPUT IS ENCOURAGED! WE ARE LISTENING!</b> <i>The Committee would appreciate receiving your written comments regarding this application by May 21, 2015. If the Secretary-Treasurer does not receive your comments by this date, it may be presumed you have no objection to the proposal. Should an extension be required, please contact the Secretary-Treasurer. Unless indicated otherwise, personal information and all comments will become part of the public record and may be publicly released.</i>  The applicant or the authorized agent of the applicant <b>MUST</b> be present at the hearing. Take notice that if you do not attend at this hearing, the Committee may proceed in your absence and you will not be entitled to any further notice in the proceedings.
	<b>NEED MORE INFORMATION? CONTACT US!</b>  <b>TOWN OF PELHAM COMMITTEE OF ADJUSTMENT</b> 20 Pelham Town Square, P. O. Box 400 Fonthill, Ontario L0S 1E0 (905) 892-2607, ext. 315 Fax: (905) 892-5055 Toll Free: 1-866-271-0391 E-Mail: <a href="mailto:NJBozzato@pelham.ca">NJBozzato@pelham.ca</a>   Nancy J. Bozzato, Dipl.M.M., AMCT Town Clerk / Secretary-Treasurer  Dated this 1 <sup>st</sup> day of May 2015
Legal Notice 	<b>IMPORTANT INFORMATION!</b> If you wish to be notified of the decision of the Committee of Adjustment (Committee) in respect of this application, you must submit a written request to the Secretary-Treasurer at the address indicated above. This will also entitle you to be advised of a possible Ontario Municipal Board (OMB) Hearing. Even if you are the successful party, you should request a copy of the decision since the Committee decision may be appealed to the OMB by the applicant or another member of the public. If a person or public body that files an appeal of a decision of the Committee in respect of the proposed application does not make written submissions to the Committee before it gives or refuses to give a provisional consent or relief, the OMB may dismiss the appeal.
Town of Pelham Committee of Adjustment	



**Appendix 3: Building Department Comments**



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Date May 28, 2015

To Andrew Gameiro  
Planner

From Mike Zimmer CBO

RE: Comments regarding Consent Applications B1/2015P and B2/2015P

I have reviewed the proposed Consent Applications B1/2015P and B2/2015P

I do not have any issues with these applications

Mike Zimmer  
CBO



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20 Pelham Town Square P.O. Box 400 · Fonthill, ON L0S 1E0 p: 905.892.2607 f: 905.892.5055  
[pelham.ca](http://pelham.ca)

## Appendix 4: Department of Public Works Comments



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DATE: May 29, 2015  
 TO: Nancy J. Bozzato  
 CC:  
 FROM: Andrea Clemencio, Director of Public Works & Utilities  
 RE: Committee Of Adjustment, File B1 2015P and B2 2015P  
 Lawrence Overbeeke  
 691 Canboro Road

---

We have completed the review of the consent applications B1 2015P and B2 2015P related to conveyance of 1114 m<sup>2</sup> and 1115m<sup>2</sup> respectively, for single detached residential use as per the details in the applications.

Public Works has the following comments:

- The proposed lots do not front existing Town of Pelham sanitary gravity sewer main.
- The proposed lots front existing Town of Pelham drinking water main:
  - o A condition of severance is suggested that the owner confirm no existing water or sewer services branch from or through the proposed lots to other lands, and from or through the remaining parcel to other lands.
  - o A condition of severance is suggested that any request to connect to existing Town of Pelham drinking water main shall be managed through the Building Permit process, subject to review by the Water Department, considering such factors as length of service, or cross-connections to existing wells.
- Niagara Peninsula Conservation Authority environmental area overlaps onto the proposed lots.

From the Department of



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From the Department of



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## Appendix 5: Larry & Jane Sztogryn Comments

Larry & Jane Sztogryn

Town of Pelham Committee of Adjustment  
20 Pelham Town Square, P.O. Box 400  
Fonthill, Ontario L0S 1E0

May 21, 2015

Attention: Nancy J. Bozzato, Dipl.M.M., AMCT  
Town Clerk / Secretary – Treasurer

Re: FILE B1 / 2015P and FILE B2 / 2015P  
LAWRENCE OVERBEEKE Part Lot 3, RP59M-101  
691 Canboro Road, Pelham (also known as lot 3 ALDER ESTATES)

#1 – 691 is not currently being used as a “single family dwelling” as per the Land Transfer Tax Act

Instructions #3. Extract of clause 1(1) (ja) of the Act:

(ja) “single family residence” - attached excerpt of instructions provided

– definition of “single family residence” is also described in the Municipal Act and Town of Pelham by-laws

Questions: Will the residence now located at 691 Canboro Road be returned to single family unit or be retained as a multi person dwelling as it exists currently?

Mr. Overbeeke does not reside at 691 Canboro Road so the “rooming house” designation in the Town of Pelham by-laws does not apply.

Will “single family” proposed lots also house multiple non related persons?

#2 – Has an environmental study been done on this property? If not will one be required under supervision of the Town of Pelham zoning department?

This property contains the original barn that was associated with the orchard that is now Alder Estates. Oil, coolant, diesel fuel, sprays, fertilizer and other potentially hazardous contaminates could still be present on these lands from that operation.

When Mr. Overbeeke acquired ownership he operated his lawn spraying/fertilizing business from the same barn before our residency in 1988 and continuously until approx. 2013. Strict regulations regarding the storage and handling of lawn sprays and fertilizers were not in place until recently when they were then seen as a detriment to the environment and harmful to persons. That means a lot of unregulated years went by on this property even prior to Mr. Overbeeke’s ownership.

Vehicle body work, spray painting of vehicles, oil changes etc. regularly took place on the proposed lands to be severed. Drums and sprayers on the backs of trucks were regularly washed out at the back of the barn onto the ground and residuals could be present in the soil. Chemicals were stored and mixed daily for years on this property. It would only be by testing the soil to find if it is safe for development if allowed to sever. If the barn is removed will that soil be tested when the permit is applied for to demolish the barn and sheds? Under that area could be even worse because the enclosure that now safely contains these contaminates will allow them to transfer to the surrounding area once the barn is removed and soil disturbed. This barn is elevated higher than our property and liquids travel down, our property is directly in line to

1

Larry & Jane Sztogryn

receive the contaminated ground water run off. When the sheds are removed will that area also be inspected by the MOE because the sheds contained multiple fuel tanks, without protective leak preventing enclosures, that when removed will allow the ground to become saturated and also generate toxic run off of hazardous waste. This run off could migrate into surrounding basements and affect our indoor air quality. The only way to be sure is to test and remove contaminated soil and hazardous waste lumber generated from the disturbance of the barn and sheds. The MOE stated that the Town of Pelham should have acted on this property years ago and not allowed it to continue unregulated.

The commercial lawn spaying and fertilizing business, "Lawrences Lawn Care Ltd", was carried out illegally for in excess of 25 years on this property as it is zoned residential. The Town of Pelham never responded to the complaints and concerns about the business on this property. The address of the lawn care operation is at his home on Balfour Street but he actually stored his trucks, chemicals, etc. at this location on Canboro Road unregulated for years until 2013 when he then moved this operation to 1560 Balfour Street. To be a home based business Mr. Overbeek has to live at the address and not have employees or use auxiliary buildings. Mr. Overbeeke had employees and was operating out of an auxiliary building (the barn and sheds). This was a commercial operation and should not have been allowed to continue in a residential area.

Has an Ontario "Risk Assessment" been performed on Lot #3 under 2.1 pages #2 of the Ontario Environmental Protection Act? If severed will these lots be registered as "Brownfields" in Ontario for redevelopment if contamination is found? In the "About Brownfields" definition we believe this property falls into the category described leaving contaminated soil. This will also affect surrounding property values. Under 2.4 page #3 will the Town of Pelham be assisting Lot #3 Alder Estates to meet site condition standards?

It is buyer beware once the new owner disturbs the soil and his cost to remediate if Mr. Overbeeke is not required by the Town to act. If new owners are not told of Lot #3's history this may leave the Town of Pelham liable due to it's knowledge of previous operations at this address.

#3 – Has a traffic impact study taken place or consideration been given to the addition of two more driveways onto Canboro Road? If allowed this will place 16 proposed driveways on the stretch between Sunset and Balfour Streets.

When we purchased our residence, Lot 1 Alder Estates, in 1988 we did so because of the low density of one acre lots. Alder Estates was designed for one acre lots and when purchasing a home in a planned survey/subdivision containing one acre lots you do not expect that down the road they will chop off pieces disregarding the impact on other residents. Lot #3's now 60.37 meters adjusted to 18 meter lots will clearly devalue my property as it is only one residence away from the proposals. If allowed to proceed there are many lots in Alder Estates that would lend themselves to severance if precedent is set with these small parcels. The creation of smaller lots means building of smaller homes. This was not part of the original vision and plan for Alder Estates. If other properties within Alder Estates follow to sever sections off this means smaller homes tucked into side and back yards that will devalue all homes in the entire subdivision. Our homes are on septic systems without sewer lines on this side of the street.

The majority of the homes within Alder Estates have the original owners still residing in them. This is an area with a stable population that purchased here because of the larger lots and the privacy that the larger lots provide. We have no fences between properties and respect the privacy of each other. This quiet ambiance can not be maintained if lots are shrunk down by residents looking to maximize the return on their investment because they no longer live here and respect the original intent of the planned subdivision (one acre lots).

2

Larry & Jane Sztogryn

Mr. Overbeeke has not resided in Alder Estates in over 25 years, has continually rented out the house and ran his illegal lawn spraying business from the barns and auxiliary buildings. To our knowledge there has never been a variance obtained to allow the commercial lawn spraying business with employees to operate from an auxiliary building at 691 Canboro Road. Land which has been zoned single family residential since Alder Estates was created.

We do not believe that the intent of "Town of Pelham Official Plan" dated March 11, 2014 outlining Urban Area Residential Intensification (B1.1.3 page 17 & 18) allows for what Mr. Overbeeke intends to do. "While the intensification opportunities will be encouraged proponents will be expected to demonstrate, through the provision of detailed site plans and elevation plans, that such proposals will be respectful of, compatible with and designed to be integrated with the community or neighborhood where they are proposed" and (B1.2.4.1 page 28 Residential and Mixed Use Intensification). Has this application been looked at by the Zoning department? If so have all the recommendations and studies been completed or what is the timeline to do so? Will residents affected be provided with copies of the results?

Town of Pelham Official Plan B1.1.3 g) "The Town will consider Conditional Zoning Amendments". If so will the reports be provided to residents prior to approval or denial of Mr. Overbeeke's applications? Mr. Overbeeke is using the minimum 18.0 meter frontage used in B1.6.2.2. In the Policies section d) it states that it may be subject to the Site Plan Control provision of the Planning Act. What controls if any will be put in place for construction of homes after the lots are severed?

There is no shortage of lots for development in the immediate area at this time to justify approval to infill Alder Estates. In fact there are three large subdivision projects on hold in the immediate area of 691 Canboro Road. There are lots across the street from 691 Canboro Road that remain unsold. The new house built directly across the street from 691 Canboro Road, constructed by T. Hinan, was only completed after the bare foundation had been sitting idle for a number of years and was at risk of being ordered to be removed by the Town if not built on.

We would like to go on record as objecting to the proposal and want to be notified of the decision of the Committee of Adjustment in respect of these two applications to sever one property into three.

We would also request to go on record at this time to be informed of the results of any environmental testing that has been performed or will be performed on 691 Canboro Road that could directly affect the value and safety of our property.

Thank You



Larry & Jane Sztogryn

## Instructions

SINGLE FAMILY  
DWELLING

Where any transferee (other than a joint tenant) is taking less than the whole interest in the property being acquired, then the percentage ownership of each such transferee must be clearly indicated beside his/her respective name.

2. (i) It should be noted that if all *deponents* are not entitled to mark the same square in paragraph 1 of the Affidavit, then more than one Affidavit will be required. Only those deponents who are entitled to mark the same square in paragraph 1 may swear the same Affidavit.

(ii) This Affidavit is required to be made by each transferee named in the conveyance, by each person in trust for whom the land conveyed in the conveyance described is being conveyed and by each trustee named in the conveyance to whom the land is conveyed.

(iii) However, any of the transferees may have the Affidavit made on his behalf by an agent authorized in writing to make the Affidavit or by his solicitor. (See clause (d) of paragraph 1 of Affidavit.)

(iv) The Affidavit for a transferee that is a corporation may be made by its President, Vice President, Manager, Secretary, Director or Treasurer. (See clause (e) of paragraph 1 of Affidavit.)

(v) Where transferees are married to each other, either spouse may make the Affidavit on behalf of him/herself and the other. (See clause (f) of paragraph 1 of Affidavit.)

3. Extract of clause 1(1)(ja) of the Act:

(ja) "single family residence" means,

- (i) a unit or proposed unit under the Condominium Act, or  
(ii) a structure or part of a structure,

that is designed for occupation as the residence of one family, including dependants or domestic employees of a member of the family, whether or not rent is paid for the occupation of any part of such residence, and whether or not the land on which the residence is situated is zoned for residential use, and "single family residence" includes any such residence that is to be constructed as part of the arrangement relating to a conveyance of land, but does not include any such residence constructed or to be constructed on agricultural land where the transferor with respect to the land conveyed meets the eligibility requirements for a farm tax reduction rebate contained in clause 4(b) or (c) of Ontario Regulation 716/83 made under the Ministry of Agriculture and Food Act.

4. Note: Subsection 1(3) provides, inter alia, that an individual shall be considered to be "ordinarily resident in Canada" if, at the time the expression is being applied, he has sojourned in Canada during the next preceding twenty-four months for a period of, or periods the aggregate of which is 366 days or more.

Extract of clauses 1(1)(f) and (g) of the Act:

(f) "non-resident corporation" means a corporation incorporated, formed or otherwise organized in Canada or elsewhere,

- (i) that has allotted and issued shares to which are attached 50 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation and that are owned by one or more non-resident persons, but this subclause does not apply where it is established to the satisfaction of the Minister that such one or more non-

the corporation and that subclause (v) does not apply to the corporation,

(iii) one-half or more of the directors of which, or of the persons occupying the position of director by whatever name called, are individuals who are non-resident persons,

(iv) without share capital and one-half or more of the members of which are non-resident persons,

(v) that is controlled directly or indirectly by one or more non-resident persons, including a non-resident corporation within the definition contained in the provisions of this clause other than this subclause,

(vi) one-quarter or more of the paid-up capital of which is held by a non-resident person or by that person and one or more persons who are associates of that person and who are themselves non-resident persons,

(vii) one-half or more of the paid-up capital of which is held by one or more non-resident persons,

(viii) that would be required on dissolving, winding up, or any other distribution that is not a dividend, to distribute one-quarter or more of its surplus to a non-resident person or to that person and one or more persons who are associates of that person and who are themselves non-resident persons, or

(ix) that would be required on dissolving, winding-up, or any other distribution of surplus that is not a dividend, to distribute one-half or more of its surplus to one or more non-resident persons.

(g) "non-resident person" means,

(i) an individual who is not ordinarily resident in Canada or who, if ordinarily resident in Canada, is neither a Canadian citizen nor an individual who has been lawfully admitted to Canada for permanent residence in Canada,

(ii) a partnership, syndicate, association or other organization of whatsoever kind of which one-half or more of the members are non-resident persons within the meaning of subclause (i), (iii) or (iv) or in which interests representing in value 50 per cent or more of the total value of the property of such partnership, syndicate, association or other organization are beneficially owned by non-resident persons within the meaning of subclause (i), (iii) or (iv),

(iii) a trust in which non-resident persons within the meaning of subclause (i), (ii) or (iv) have 50 per cent or more of the beneficial interests in the corpus of the trust or in the income arising therefrom, and "trust" includes the trustees under such a trust in their capacity as the trustees thereof, or

(iv) a non-resident corporation.

5. Insert the name and place of residence - or in the case of a corporation, the place of incorporation - of any transferee who is a non-resident person. If space is insufficient, attach a list of those transferees who are non-resident persons. If none of the transferees is non-resident, insert 'none'.

Note: Where the person named in the instrument as grantee is taking title on behalf of another person(s), the residency status to be recited must be that of the person or persons who are the beneficial owners of the land - not that of the grantee named in the instrument. This applies regardless of whether the trustee or nominee capacity of the grantee named in the instrument is indicated on the instrument.

6. Explain purpose of transfer: natural love and affection, pursuant to court order, separation agreement, etc.

From the Department of



Community Planning  
& Development

## Appendix 6: Joe McCollum Comments

**Andrew Gameiro**

**From:** Nancy Bozzato  
**Sent:** May-25-15 8:37 AM  
**To:** Andrew Gameiro; Julie Hannah  
**Subject:** FW: File B1/2015P and B2/2015P 691 Canboro Road, Pelham



**Nancy Bozzato, Dipl.M.M.**  
 Town Clerk  
 Administration Services

**e:** njbozzato@pelham.ca  
**p:** 905.892.2607 x315  
 pelham.ca

20 Pelham Town Square  
 P.O. 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 it to the sender and permanently delete the original and any copy of it from your computer system. Thank you.

**From:** Joe [REDACTED]  
**Sent:** Friday, May 22, 2015 4:49 PM  
**To:** Nancy Bozzato  
**Subject:** File B1/2015P and B2/2015P 691 Canboro Road, Pelham

Nancy

In regard to the applications noted above for 691 Canboro Road, I would like to make the following comments and I trust that you would pass them on to the Planning Department and the Public Works Department for use in their deliberations in this matter:

1. I live at 687 Canboro Road and have a row of mature 30 foot high pine trees running along the west side of my property adjacent to 691 Canboro. I would like to keep these trees "as they are" which could be a problem for a house built close to the property line on a 18 metre lot.
2. I understand from the Planning Dept that these 2 18 metre lots conform to the minimum lot width allowed under the current zoning but in my opinion they do not conform to the larger sized surrounding lots. All the lots on Alder Crescent and most of the nearby lots on Canboro Road are much larger. These narrow lots would be completely out of character in this area.
3. I am concerned about the drainage in the area with the creation of these new lots. There already is a problem with drainage on Canboro Road south of my house that requires Public Works to drain the roadway after every heavy rain. On the south side of the road all the drainage is to the north onto my lot and the nearby houses on Alder Crescent. It would not make any sense to make this any worse.

1





I hope that these comments will be discussed by the Committee of Adjustment when they make their decision in regard to these applications.

Thank you,  
Joe McCollum



VIA E-MAIL ONLY

May 29, 2015

Nancy Bozzato  
Town Clerk/Secretary Treasurer  
Town of Pelham Committee of Adjustment  
20 Pelham Town Square, P.O. Box 400  
Fonthill, ON  
L0S 1E0

Re: Regional Review Comments  
Applications for Consent to Conveyance

Applicant: Lawrence Overbeeke  
Proposal: Consent to convey 1,115 square metres of land for single detached residential use.  
Consent to convey 1,114 square metres of land for single detached residential use.  
Retain 1,236 square metres of land (Part 1) with a dwelling for continued residential use.

Location: 691 Canboro Road  
Town of Pelham

Our File: CS-15-032 & CS-15-033

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Niagara Region Planning and Development Services staff has completed a review of information circulated regarding the above-noted consent applications for the property municipally known as 691 Canboro Road in the Town of Pelham. The following Regional comments are provided to Municipal staff in considering these applications. Niagara Region would have no objections to the consent applications provided the Regional conditions attached as Appendix I are met.

**Comments In Brief**

**Connection to Regional Watermain**

At present, there are no local watermains available along Canboro Road to service the proposed lots. We would note that there is a 300mmØAC Regional watermain within the Canboro Road allowance where the proposed lots would have frontage. Should the owner wish to establish new connection(s) to the Regional watermain for servicing of the proposed lots, Niagara Region Planning and Development Services Division must review and approve each new connection to the Regional watermain. Application(s) including the appropriate fee(s) for each new connection to Regional infrastructure (watermain) must be submitted the Niagara Region Planning and Development Services Division through the Town of Pelham Public Works Department. We would request that detailed design drawings showing the proposed lateral connections to the Regional watermain be included with any application submission(s) for connection.

### **Extension of Local Sanitary Sewer Line**

We would note that Environmental Compliance Approval (ECA) No. 8607-9M3HMC was issued by Ministry of the Environment and Climate Change on July 17, 2014 approving construction/extension of the local 200mmØPVC sanitary sewer line within the Canboro Road allowance to approximately 105 metres east of Balfour Street. Sanitary sewer services for the proposed Lots will require extension of the local sanitary sewer line approximately 150 metres east of Balfour Street to align with the eastern most property boundary of proposed Part 3. As a condition of the consent, Niagara Region Planning and Development Services staff must review and approve any new/extended sewer services under the Ministry of The Environment and Climate Change Transfer of Review Program. Design drawings with calculations for the sanitary sewer extension must be submitted to Niagara Region Planning and Development Division for review and approval.

### **Existing Private Sewage Systems**

We would note that the proposed lot creation is located within the urban area boundary of the Town of Pelham. As previously noted, local sanitary sewer services are not presently available along Canboro Road where the proposed lots would have frontage. Niagara Region Private Sewage Inspection staff has reviewed the applications for consent. No record was found for the existing sewage system servicing the property. Upon inspection, the septic tank servicing the existing dwelling was located behind the home. The exact location of the tile bed could not be determined. However, no visible defects were noted with the existing sewage system. As per Ontario Building Code regulations, private sewage disposal systems must be wholly contained on the lot which they service; however, the lots are to be connected to the municipal sewer system, although sewers are not currently available.

Regional Private Sewage Inspections staff has no objections to the consent application provided that:

- The existing dwelling at 691 Canboro Road is connected to municipal sewers and the existing sewage system decommissioned; and
- The Municipal sanitary sewer line is extended to service the subject lots of Part 2 and Part 3.

We trust that the foregoing Regional comments and conditions will be appropriately incorporated into any correspondence with this applicant.

Yours truly,



Wesley Foebel  
Development Approvals Technician

Attachments: Appendix I – “691 Canboro Road – Lawrence Overbeeke, Application for Consent to Conveyance – Regional Conditions”

Cc: M. Janas, Associate Director, Water Operations  
J. Corkery, Associate Director, Wastewater Operations  
C. Rittner, Associate Director, Water & Wastewater Systems Maintenance  
G. Epp, Supervisor Assets Information, Water & Wastewater Services Division  
T. Killins, Private Sewage Systems Inspector, Planning & Development Services  
R. Wilson, Planner, Planning & Development Services

**Appendix I**  
**691 CANBORO ROAD – LAWRENCE OVERBEEKE**  
**APPLICATION FOR CONSENT TO CONVEYANCE – REGIONAL CONDITIONS**

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1. That the owner shall submit an application(s) for each new connection to the 300mmØAC Regional watermain located within the Canboro Road allowance to the Niagara Region Planning and Development Services Division through the Town of Pelham public works department.
2. That the owner shall provide detailed drawings of proposed connections to the 300mmØAC Regional watermain located within the Canboro Road allowance to the Niagara Region Planning & Development Services Department for review and approval.
3. That the owner shall submit detailed design drawings (with calculations) for extension of the local 200mmØPVC sanitary sewer system required to service the proposed lots and obtain Ministry of the Environment and Climate Change Environmental Compliance Approval(s) under the Transfer of Review Program to the satisfaction of the Niagara Region Planning and Development Services Division.
4. That approval of the requested consent to conveyance shall be conditional on the existing dwelling (691 Canboro Road) being connected to Municipal sanitary sewers and the existing sewage system decommissioned.
5. That approval of the requested consent to conveyance shall be conditional on extension of the Municipal sanitary sewer line to service the subject lots being Part 2 and Part 3.

Larry & Jane Sztogryn  
Canboro Rd., Fenwick, Ont. L0S 1C0

Town of Pelham Committee of Adjustment  
20 Pelham Town Square, P.O. Box 400  
Fonthill, Ontario L0S 1E0

May 21, 2015

Attention: Nancy J. Bozzato, Dipl.M.M., AMCT  
Town Clerk / Secretary – Treasurer

Re: FILE B1 / 2015P and FILE B2 / 2015P  
LAWRENCE OVERBEEKE Part Lot 3, RP59M-101  
691 Canboro Road, Pelham (also known as lot 3 ALDER ESTATES)

#1 – 691 is not currently being used as a “single family dwelling” as per the Land Transfer Tax Act

Instructions #3. Extract of clause 1(1) (ja) of the Act:

(ja) “single family residence” - attached excerpt of instructions provided

– definition of “single family residence” is also described in the Municipal Act and Town of Pelham by-laws

Questions: Will the residence now located at 691 Canboro Road be returned to single family unit or be retained as a multi person dwelling as it exists currently?

Mr. Overbeeke does not reside at 691 Canboro Road so the “rooming house” designation in the Town of Pelham by-laws does not apply.

Will “single family” proposed lots also house multiple non related persons?

#2 – Has an environmental study been done on this property? If not will one be required under supervision of the Town of Pelham zoning department?

This property contains the original barn that was associated with the orchard that is now Alder Estates. Oil, coolant, diesel fuel, sprays, fertilizer and other potentially hazardous contaminates could still be present on these lands from that operation.

When Mr. Overbeeke acquired ownership he operated his lawn spraying/fertilizing business from the same barn before our residency in 1988 and continuously until approx. 2013. Strict regulations regarding the storage and handling of lawn sprays and fertilizers were not in place until recently when they were then seen as a detriment to the environment and harmful to persons. That means a lot of unregulated years went by on this property even prior to Mr. Overbeeke’s ownership.

Vehicle body work, spray painting of vehicles, oil changes etc. regularly took place on the proposed lands to be severed. Drums and sprayers on the backs of trucks were regularly washed out at the back of the barn onto the ground and residuals could be present in the soil. Chemicals were stored and mixed daily for years on this property. It would only be by testing the soil to find if it is safe for development if allowed to sever. If the barn is removed will that soil be tested when the permit is applied for to demolish the barn and sheds? Under that area could be even worse because the enclosure that now safely contains these contaminates will allow them to transfer to the surrounding area once the barn is removed and soil disturbed. This barn is elevated higher than our property and liquids travel down, our property is directly in line to

Larry & Jane Sztogryn  
Canboro Rd., Fenwick, Ont. L0S 1C0

receive the contaminated ground water run off. When the sheds are removed will that area also be inspected by the MOE because the sheds contained multiple fuel tanks, without protective leak preventing enclosures, that when removed will allow the ground to become saturated and also generate toxic run off of hazardous waste. This run off could migrate into surrounding basements and affect our indoor air quality. The only way to be sure is to test and remove contaminated soil and hazardous waste lumber generated from the disturbance of the barn and sheds. The MOE stated that the Town of Pelham should have acted on this property years ago and not allowed it to continue unregulated.

The commercial lawn spaying and fertilizing business, "Lawrences Lawn Care Ltd", was carried out illegally for in excess of 25 years on this property as it is zoned residential. The Town of Pelham never responded to the complaints and concerns about the business on this property. The address of the lawn care operation is at his home on Balfour Street but he actually stored his trucks, chemicals, etc. at this location on Canboro Road unregulated for years until 2013 when he then moved this operation to 1560 Balfour Street. To be a home based business Mr. Overbeek has to live at the address and not have employees or use auxiliary buildings. Mr. Overbeeke had employees and was operating out of an auxiliary building (the barn and sheds). This was a commercial operation and should not have been allowed to continue in a residential area.

Has an Ontario "Risk Assessment" been performed on Lot #3 under 2.1 pages #2 of the Ontario Environmental Protection Act? If severed will these lots be registered as "Brownfields" in Ontario for redevelopment if contamination is found? In the "About Brownfields" definition we believe this property falls into the category described leaving contaminated soil. This will also affect surrounding property values. Under 2.4 page #3 will the Town of Pelham be assisting Lot #3 Alder Estates to meet site condition standards?

It is buyer beware once the new owner disturbs the soil and his cost to remediate if Mr. Overbeeke is not required by the Town to act. If new owners are not told of Lot #3's history this may leave the Town of Pelham liable due to it's knowledge of previous operations at this address.

#3 – Has a traffic impact study taken place or consideration been given to the addition of two more driveways onto Canboro Road? If allowed this will place 16 proposed driveways on the stretch between Sunset and Balfour Streets.

When we purchased our residence, Lot 1 Alder Estates, in 1988 we did so because of the low density of one acre lots. Alder Estates was designed for one acre lots and when purchasing a home in a planned survey/subdivision containing one acre lots you do not expect that down the road they will chop off pieces disregarding the impact on other residents. Lot #3's now 60.37 meters adjusted to 18 meter lots will clearly devalue my property as it is only one residence away from the proposals. If allowed to proceed there are many lots in Alder Estates that would lend themselves to severance if precedent is set with these small parcels. The creation of smaller lots means building of smaller homes. This was not part of the original vision and plan for Alder Estates. If other properties within Alder Estates follow to sever sections off this means smaller homes tucked into side and back yards that will devalue all homes in the entire subdivision. Our homes are on septic systems without sewer lines on this side of the street.

The majority of the homes within Alder Estates have the original owners still residing in them. This is an area with a stable population that purchased here because of the larger lots and the privacy that the larger lots provide. We have no fences between properties and respect the privacy of each other. This quiet ambiance can not be maintained if lots are shrunk down by residents looking to maximize the return on their investment because they no longer live here and respect the original intent of the planned subdivision (one acre lots).

Larry & Jane Sztogryn

Canboro Rd., Fenwick, Ont. L0S 1C0

Mr. Overbeeke has not resided in Alder Estates in over 25 years, has continually rented out the house and ran his illegal lawn spraying business from the barns and auxiliary buildings. To our knowledge there has never been a variance obtained to allow the commercial lawn spraying business with employees to operate from an auxiliary building at 691 Canboro Road. Land which has been zoned single family residential since Alder Estates was created.

We do not believe that the intent of "Town of Pelham Official Plan" dated March 11, 2014 outlining Urban Area Residential Intensification (B1.1.3 page 17 & 18) allows for what Mr. Overbeeke intends to do. "While the intensification opportunities will be encouraged proponents will be expected to demonstrate, through the provision of detailed site plans and elevation plans, that such proposals will be respectful of, compatible with and designed to be integrated with the community or neighborhood where they are proposed" and (B1.2.4.1 page 28 Residential and Mixed Use Intensification). Has this application been looked at by the Zoning department? If so have all the recommendations and studies been completed or what is the timeline to do so? Will residents affected be provided with copies of the results?

Town of Pelham Official Plan B1.1.3 g) "The Town will consider Conditional Zoning Amendments". If so will the reports be provided to residents prior to approval or denial of Mr. Overbeeke's applications? Mr. Overbeeke is using the minimum 18.0 meter frontage used in B1.6.2.2. In the Policies section d) it states that it may be subject to the Site Plan Control provision of the Planning Act. What controls if any will be put in place for construction of homes after the lots are severed?

There is no shortage of lots for development in the immediate area at this time to justify approval to infill Alder Estates. In fact there are three large subdivision projects on hold in the immediate area of 691 Canboro Road. There are lots across the street from 691 Canboro Road that remain unsold. The new house built directly across the street from 691 Canboro Road, constructed by T. Hinan, was only completed after the bare foundation had been sitting idle for a number of years and was at risk of being ordered to be removed by the Town if not built on.

We would like to go on record as objecting to the proposal and want to be notified of the decision of the Committee of Adjustment in respect of these two applications to sever one property into three.

We would also request to go on record at this time to be informed of the results of any environmental testing that has been performed or will be performed on 691 Canboro Road that could directly affect the value and safety of our property.

Thank You



Larry & Jane Sztogryn  
Lot 1 Alder Estates

#1

Where any transferee (other than a joint tenant) is taking less than the whole interest in the property being acquired, then the percentage ownership of each such transferee must be clearly indicated beside his/her respective name.

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that is designed for occupation as the residence of one family, including dependants or domestic employees of a member of the family, whether or not rent is paid for the occupation of any part of such residence, and whether or not the land on which the residence is situated is zoned for residential use, and "single family residence" includes any such residence that is to be constructed as part of the arrangement relating to a conveyance of land, but does not include any such residence constructed or to be constructed on agricultural land where the transferor with respect to the land conveyed meets the eligibility requirements for a farm tax reduction rebate contained in clause 4(b) or (c) of Ontario Regulation 716/83 made under the Ministry of Agriculture and Food Act.

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(f) "non-resident corporation" means a corporation incorporated, formed or otherwise organized in Canada or elsewhere,

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the corporation and that subclause (v) does not apply to the corporation,

(iii) one-half or more of the directors of which, or of the persons occupying the position of director by whatever name called, are individuals who are non-resident persons,

(iv) without share capital and one-half or more of the members of which are non-resident persons,

(v) that is controlled directly or indirectly by one or more non-resident persons, including a non-resident corporation within the definition contained in the provisions of this clause other than this subclause,

(vi) one-quarter or more of the paid-up capital of which is held by a non-resident person or by that person and one or more persons who are associates of that person and who are themselves non-resident persons,

(vii) one-half or more of the paid-up capital of which is held by one or more non-resident persons,

(viii) that would be required on dissolving, winding up, or any other distribution that is not a dividend, to distribute one-quarter or more of its surplus to a non-resident person or to that person and one or more persons who are associates of that person and who are themselves non-resident persons, or

(ix) that would be required on dissolving, winding-up, or any other distribution of surplus that is not a dividend, to distribute one-half or more of its surplus to one or more non-resident persons.

(g) "non-resident person" means,

(i) an individual who is not ordinarily resident in Canada or who, if ordinarily resident in Canada, is neither a Canadian citizen nor an individual who has been lawfully admitted to Canada for permanent residence in Canada,

(ii) a partnership, syndicate, association or other organization of whatsoever kind of which one-half or more of the members are non-resident persons within the meaning of subclause (i), (iii) or (iv) or in which interests representing in value 50 per cent or more of the total value of the property of such partnership, syndicate, association or other organization are beneficially owned by non-resident persons within the meaning of subclause (i), (iii) or (iv),

(iii) a trust in which non-resident persons within the meaning of subclause (i), (ii) or (iv) have 50 per cent or more of the beneficial interests in the corpus of the trust or in the income arising therefrom, and "trust" includes the trustees under such a trust in their capacity as the trustees thereof, or

(iv) a non-resident corporation,

5. Insert the name and place of residence - or in the case of a corporation, the place of incorporation - of any transferee who is a non-resident person. If space is insufficient, attach a list of those transferees who are non-resident persons. If none of the transferees is non-resident, insert 'none'.

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6. Explain purpose of transfer: natural love and affection, pursuant to court order, separation agreement, etc.



## Appendix 1 for 5.4.: McCollum re 691 Canboro

### Nancy Bozzato

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**From:** Joe [REDACTED]  
**Sent:** Friday, May 22, 2015 4:49 PM  
**To:** Nancy Bozzato  
**Subject:** File B1/2015P and B2/2015P 691 Canboro Road, Pelham

Nancy

In regard to the applications noted above for 691 Canboro Road, I would like to make the following comments and I trust that you would pass them on to the Planning Department and the Public Works Department for use in their deliberations in this matter:

1. I live at [REDACTED] Canboro Road and have a row of mature 30 foot high pine trees running along the west side of my property adjacent to 691 Canboro. I would like to keep these trees "as they are" which could be a problem for a house built close to the property line on a 18 metre lot.
2. I understand from the Planning Dept that these 2 18 metre lots conform to the minimum lot width allowed under the current zoning but in my opinion they do not conform to the larger sized surrounding lots. All the lots on Alder Crescent and most of the nearby lots on Canboro Road are much larger. These narrow lots would be completely out of character in this area.
3. I am concerned about the drainage in the area with the creation of these new lots. There already is a problem with drainage on Canboro Road south of my house that requires Public Works to drain the roadway after every heavy rain. On the south side of the road all the drainage is to the north onto my lot and the nearby houses on Alder Crescent. It would not make any sense to make this any worse.

I hope that these comments will be discussed by the Committee of Adjustment when they make their decision in regard to these applications.

Thank you,  
Joe McCollum  
[REDACTED] Canboro Road, Pelham