

Committee of Adjustment AGENDA

12/2018

December 4, 2018

4:00 pm

Town of Pelham Municipal Office - Council Chambers

20 Pelham Town Square, Fonthill

Pages

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. Application for Minor Variance

5.1 A21/2018P - Neil D. Gennings & Joanne Gennings

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1. Town of Pelham Planning Department
2. Town of Pelham Public Works
3. Town of Pelham Fire Department
4. Town of Pelham Building Department
5. Region of Niagara Planning and Development Services

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	5. Region of Niagara Planning and Development Services	
	6. Comments from Mike and Jenan Hassani	
5.4	A25/2018P - Bill Fordy & Nicole Noonan	28
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	5. Niagara Peninsula Conservation Authority.	
	6. Region of Niagara Planning and Development Services.	

6. Applications for Consent

7. Minutes for Approval

8. Adjournment

December 4, 2018

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

Re: Minor Variance Application A21/2018P (Neil Gennings)
725 Church Street, Pelham
Concession 11, Part of Lot 15
Roll No. 2732 010 018 02600

The subject land is located on the east side of Church Street lying north of Sumbler Road, legally described above, and known municipally as 725 Church Street, in the Town of Pelham.

The subject land is zoned 'Agricultural' (A) in accordance with Pelham Zoning By-law 1136 (1987), as amended. The minor variance application requests relief from:

- **Section 7.7 a) "Max Lot Coverage"** to allow a maximum accessory building lot coverage of 2.6% whereas 1% is allowed.
- **Section 7.7 d) "Max Accessory Building Height"** to allow a maximum accessory building height of 4.3m whereas 3.7m is allowed.

The proposal is for the construction of a 1-storey detached accessory building on an existing 0.45ha (1.12 acre) rural residential lot that contains a single detached dwelling. An existing detached accessory building is proposed to be demolished.

Applicable Planning Policies

Provincial Policy Statement (PPS), 2014

The Provincial Policy Statement (PPS) designates the subject land within the 'Prime Agricultural Area'. The permitted uses (among others) include: agricultural / agricultural related uses, limited residential development and home occupations. 'Prime Agricultural Areas' are defined as including associated Canada Land Inventory Class 4-7 lands as well as 'Prime Agricultural Lands' (Class 1-3 lands).

Regional Official Plan (Consolidated, August 2014)

The Regional Official Plan designates the subject parcel as 'Good General Agricultural Area'.

Policy 5.B.6 states single dwellings are permitted on existing lots of record provided they were zoned for such as of December 16, 2004.

Pelham Official Plan, 2014

The local Official Plan designates the subject parcel as ‘Good General Agricultural’. Policy B2.1.2 states (among other uses) one single detached dwelling is permitted on a vacant lot of record.

Pelham Zoning By-law Number 1136 (1987)

The Town Zoning By-law identifies the subject parcel as ‘Agricultural’ (A).

Section 7.7 Requirements for buildings and structures accessory to dwellings

a) Maximum Lot Coverage	1%	Request = 2.6%
d) Maximum Building Height	3.7m	Request = 4.3m

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

Minor Variance Test	Explanation
1. The variance is minor in nature.	<p>Increasing the accessory building lot coverage to 2.6% is minor overall given the ample amounts of landscaped open space available on the property which allow for storm water penetration, septic system purposes and amenity area.</p> <p>Increasing the accessory building height to 4.3m is minor given the rural context; adequate distance buffers the accessory building from nearby neighbours.</p>
2. The variance is desirable for the development or use of the land.	The variance request to increase the accessory building height and lot coverage is desirable for the property as it allows for enhanced storage and use of the facility. The proposed design of the detached garage makes use of the existing L-shaped driveway by having the vehicle doors face south. No adverse impacts are anticipated on surrounding lands.
3. The variance maintains the general intent and purpose of the Official Plan.	<p>The proposed use of a building accessory to a single detached house is permitted in the ‘Good General Agricultural’ designation of the Official Plan and the policy does permit uses which are compatible with agriculture. The increase in accessory building height will not compromise the objective of the Official Plan.</p> <p>Increasing the accessory building lot coverage will not impede the private servicing capacity of the septic system and does not raise any issues with Official Plan policies.</p> <p>The variances are appropriate given the site’s rural context and meet the general intent of the Town Official Plan policies.</p>
4. The variance maintains the general intent and purpose of the Zoning By-law.	The size of the proposed accessory building’s height to 4.3m is appropriate given the rural context. Ample amount of open space is available on the site for amenity areas and storm drainage.

	The increase of accessory building lot coverage in the proposed location won't compromise the existing septic system's operational needs. Given this, both variances will not adversely impact the agricultural character of the area or the surrounding countryside and will not compromise the Zoning By-law intent.
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On October 31st 2018, a notice was circulated to agencies directly affected by the proposed application including internal Town departments (i.e. Public Works, Building, etc.) and all assessed property owners within 60 metres of the property's boundaries.

To date, the following comments have been received:

- Public Works Department (November 15, 2018)
 - No comments.
- Building Department (September 20, 2018)
 - All necessary permits are required prior to construction commencing.
- Fire & By-law Services (November 1, 2018)
 - No comments.
- Niagara Region Planning & Development Services (October 5, 2018)
 - No objections.

No public comments were received to date.

Planning Comments

Planning staff note that the property is 0.45ha (1.12 acres) in land area, is not farmed and does contain one single detached dwelling.

The subject land is surrounded by:

- North – Former contractor's yard / vehicle repair garage
- East – Significant Woodlands
- South – Rural residential dwellings
- West – Agricultural

The proposed area of construction is over 20m east of Church Street, placing it well beyond the *required front yard* setback distance of 13m of Section 7.4 in the Zoning By-law, however it will be located in front of the dwelling. A reasonably large spatial separation is maintained between both the abutting neighbours to the north and south. Planning staff are of the opinion the proposed variances do not represent a potential negative impact to the community.

Town Planning staff is of the opinion that increasing the accessory building height and lot coverage will not negatively impact any neighbouring properties as significant distance buffers the development from existing residential uses and storm runoff shall be contained on-site. And further, that there will be no adverse impacts caused to the subject land owner caused by inadequate private septic system servicing.

Planning Staff is of the opinion that the application meets the four minor variance tests laid out by the

Planning Act. The application is consistent with Provincial policies, the Regional Official Plan, and conforms to the general intent of the Town's Official Plan and Zoning By-law.

The authorization of the minor variances is not expected to generate negative impacts for adjacent uses or the community at large. Consequently, Planning Staff recommend that Application File Number A21/2018P **be approved**, subject to the following;

THAT

- A demolition permit be obtained prior to the removal of the existing accessory building.
- All necessary building permits be obtained prior to construction commencing.

Submitted by,



Curtis Thompson
Planner, B.URPI

Reviewed by,

Barb Wiens, MCIP, RPP

Director/ Community Planning & Development

Memorandum

Public Works Department - Engineering

DATE: November 15, 2018
TO: Curtis Thompson, Planner
CC: Nancy J. Bozzato , Clerk; Holly Willford, Deputy Clerk; Jason Marr, Director of Public Works
FROM: Xenia Pasiecznik, Engineering Technologist
RE: File A21/2018P
725 Church Street

Public Works has completed a review of the minor variance application A21/2018P for relief of Pelham Zoning By-Law 1136(1987), as amended. The application is made to seek relief from the following:

- Section 7.7 (a) – Maximum Lot Coverage to permit a 2.55% overall coverage whereas 1% is permitted.
- Section 7.7 (d) – Maximum Building Height to permit a building height of 4.3 meters to the mid point of the pitched roof, whereas the bylaw permits a maximum height of 3.7 meters, for construction of a detached accessory building.
- Section 7.7 (e) – Accessory Building and Structures to permit the construction of an accessory building in the front yard whereas accessory buildings and structures shall not be permitted.

Public Works has no comments.

From: [Shannon Larocque](#)
To: [Curtis Thompson](#); [Holly Willford](#)
Subject: FW: 725 church
Date: November 2, 2018 11:53:00 AM

FYI

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From: Bob Lymburner
Sent: Thursday, November 01, 2018 1:32 PM
To: Shannon Larocque <SLarocque@pelham.ca>
Subject: 725 church

Hi Shannon Fire has no comment on 725 church st

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File: A21/2018P

Nov. 6, 2018

Address: Part Lot 15, Con. 11
725 Church St., Pelham

Owner: Neil D. Gennings & Joanne Gennings

Nancy Bozzato
Town Clerk/Secretary-Treasurer

The Building Department offers the following comment,

- A building permit must be obtained prior to construction commencing.

Belinda Menard
Building Intake/Plans Examiner
Community Planning & Development

October 5, 2018

Via Email Only

Our File: MV-18-064

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

Dear Ms. Bozzato:

Re: REVISED Application for Minor Variance
Applicant: Neil & Joanne Gennings
Location: 725 Church Street, Pelham
Town File: A21/2018P

Niagara Region Development Services Division has reviewed the information circulated for the above-noted application and provides the following comments to assist the Town in its consideration of this application.

Private Sewage System Review

According to the plan submitted, the application is to permit the construction of a detached garage on the northwest side of the existing house. No septic permit information was found for the existing sewage system currently servicing the dwelling but the corners of the tile bed were exposed to confirm the location of the system. There is an older, 2-compartment concrete tank on the north side of the house, which is connected to an in-ground tile bed located to the northwest. The location of the proposed garage will meet with the minimum setback requirement of 5 metres to the sewage system and there is sufficient land available on the lot for any future upgrades as needed.

Therefore, we now have no objections to the minor variance as submitted.

Yours truly,



Tanya Killins
Inspector, Private Sewage Systems (BCIN #36235)

cc: Robert Alguire, Development Approvals Technician

December 4, 2018

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

Re: Minor Variance Application A23/2018P (Michael Zoric)
46 Bacon Lane, Pelham
Part 3 on RP 59R-13220
Roll No. (Originally part of 2732 030 019 02300)

The subject land is located on the southeast corner of Bacon Lane and Marylea Street, being Part 3 on RP 59R-13220, and known municipally as 46 Bacon Lane.

The subject land is zoned 'Residential 1' (R1) in accordance with Pelham Zoning By-law 1136 (1987), as amended. The applicant requests relief from:

- **Section 13.2(c) "Maximum Lot Coverage"** to permit a lot coverage of 43.6%, whereas 40% is allowed under a previous minor variance approval (A14/2018P).

Applicable Planning Policies

Provincial Policy Statement (PPS), 2014

The subject parcel is located in the 'Settlement Area' according to the PPS.

Policy 1.1.3.1 states that settlement areas shall be the focus of growth and their vitality and regeneration shall be promoted.

Policy 1.1.3.4 states appropriate development standards should be promoted which facilitate *intensification*, *redevelopment* and compact form, while avoiding or mitigating risks to public health and safety.

Growth Plan for the Greater Golden Horseshoe (GGH) (2017)

This Plan informs decision-making regarding growth management and environmental protection in the GGH. The subject parcel is located within a 'Settlement Area' according to the Growth Plan. Guiding principles regarding how land is developed:

- Support the achievement of *complete communities* to meet people's needs through an entire lifetime.
- Prioritize *intensification* and higher densities to make efficient use of land and *infrastructure*.
- Support a range and mix of housing options, including second units and *affordable* housing, to serve all sizes, incomes, and ages of households.

- Provide for different approaches to manage growth that recognize the diversity of communities in the GGH.
- Integrate climate change considerations into planning and managing growth.

Regional Official Plan (Consolidated, August 2014)

The Regional Official Plan designates the subject land as 'Built-up Area' within the Urban Area Boundary.

Policy 4.G.6.2 indicates 'Urban Areas' will be the focus for accommodating the Region's growth and development.

Policy 4.C.2.1 states the municipality will develop and implement through their local Official Plan, policies for promoting intensification and shall generally encourage infill throughout the Built-up Area.

Town Official Plan, 2014

The local Official Plan designated the subject land as 'Urban Living Area / Built Boundary'.

Policy B1.1.1 recognizes the existing urban area of Fonthill and the role the Town will need to accommodate various forms of residential intensifications, where appropriate.

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

The subject land is zoned 'Residential 1' (R1) according to the Zoning By-law.

Section 13.2 Regulations for dwellings permitted in the R1 zone

c) Maximum Lot Coverage	40%	Request-	43.6%
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The Committee of Adjustment, in Section 45 (1) of the *Planning Act*, may authorize a minor variance from the provisions of the by-law, subject to the following considerations:

Minor Variance Test	Explanation
1. The variance is minor in nature.	Permitting an overall maximum lot coverage increase to 43.6% is minor in nature considering the surrounding neighbourhood context which consists of both large and small lot single detached residences with varying degrees of lot coverage.
2. The variance is desirable for the development or use of the land.	Increasing the maximum lot coverage to 43.6% is desirable for the use of the land because it allows for more design flexibility in siting a bungalow style dwelling and / or small accessory building(s) while still providing acceptable rear yard amenity space. The lots are large enough to have generous outdoor amenity areas and still meet the setback requirements.
3. The variance maintains the general intent and purpose of the Official Plan.	Permitting an overall maximum lot coverage increase to 43.6% maintains the general intent of the Official Plan because it will promote infill housing and help develop the land more efficiently. Also, in a practical form, the future dwelling can be built either as a bungalow or 2-storey house with more freedom in allowable building footprint designs which depend on the maximum lot

	coverage.
4. The variance maintains the general intent and purpose of the Zoning By-law.	The proposed lot coverage exceedance is more than what is permitted by By-law but still leaves adequate room for open space intentions, distance between buildings and storm water runoff without unduly affecting any neighbours.

On June 28th 2018, a notice was circulated to agencies directly affected by the proposed application including internal Town departments (i.e. Public Works, Building, etc.) and all assessed property owners within 60 metres of the property's boundaries.

To date, the following comments have been received:

- Building Department (November 21, 2018)
 - All necessary permits are required prior to construction commencing.
- Public Works Department (November 22, 2018)
 - No comments.
- Fire & By-law Services (November 17, 2018)
 - No comments.

No public comments were received.

Planning Comments

The proposed variance should not facilitate any adverse impacts with regards to land use incompatibility, storm runoff, or privacy etc.

Planning Staff is of the opinion that the application meets the four minor variance tests laid out by the Planning Act with exception to the requested rear yard setback. The subject application is consistent with Provincial policies, the Regional Official Plan, and complies with the general intent of the Town Official Plan and Zoning By-law.

The authorization of the minor variance is not expected to generate negative impacts on adjacent uses and on the community at large. Consequently, Planning Staff recommend that Application File Number A23/2018P **be approved**

Submitted by,



Curtis Thompson
Planner, B.URPI

Approved by,

Barb Wiens, MCIP, RPP
Director of Community Planning & Development



Memorandum

Public Works Department - Engineering

DATE: November 22, 2018
TO: Curtis Thompson, Planner
CC: Nancy J. Bozzato , Clerk; Holly Willford, Deputy Clerk; Jason Marr, Director of Public Works
FROM: Xenia Pasiecznik, Engineering Technologist
RE: File A23/2018P
46 Bacon Lane – Part 3

Public Works has completed a review of the minor variance application A23/2018P for relief of Pelham Zoning By-Law 1136(1987), as amended. The application is made to seek relief from the following:

- Section 13.2 (c) – to permit an overall lot coverage of 43.6% whereas 30% is permitted to facilitate construction of a single family dwelling. Approval for 40% was granted under file A14/2018P.

Public Works has no comments.

From: [Shannon Larocque](#)
To: [Curtis Thompson](#); [Holly Willford](#)
Subject: FW: comments
Date: November 20, 2018 8:45:01 AM

FYI

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From: Bob Lymburner <BLymburner@pelham.ca>
Sent: Saturday, November 17, 2018 9:04 AM
To: Shannon Larocque <SLarocque@pelham.ca>
Subject: comments

Good morning, the following properties have no comment from Fire

1. 46 Bacon Lane
2. 66 Philmori
3. 1285 Cream street

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File: A23/2018P

Nov. 21, 2018

Address: Part Lot 177,
46 Bacon Lane, Pelham

Owner: Michael Ilija Zoric

Nancy Bozzato
Town Clerk/Secretary-Treasurer

The Building Department offers the following comment,

- A building permit must be obtained prior to construction commencing.

Belinda Menard
Building Intake/Plans Examiner
Community Planning & Development

December 4, 2018

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

**Re: Minor Variance Application A24/2018P (James Terry Duffy)
1285 Cream Street, Pelham
Concession 9, Part of Lot 11, and RP 59R-11124 Part 3
Roll No. 2732 010 014 09604**

The subject land is located on the east side of Cream Street, lying south of Memorial Drive, legally described above and known municipally as 1285 Cream Street, in the Town of Pelham.

The subject land is zoned 'Agricultural' (A) in accordance with Pelham Zoning By-law 1136 (1987), as amended. The minor variance application requests relief from:

- **Section 7.7 a) "Max Accessory Lot Coverage"** to allow 2% lot coverage for accessory structures whereas 1% is permitted;

The proposal is for the construction of a 1-storey accessory building.

Applicable Planning Policies

Provincial Policy Statement (PPS), 2014

The Provincial Policy Statement (PPS) designates the subject land within the 'Prime Agricultural Area'. The permitted uses (among others) include: agricultural / agricultural related uses, limited residential development and home occupations. 'Prime Agricultural Areas' are defined as including associated Canada Land Inventory Class 4-7 lands as well as 'Prime Agricultural Lands' (Class 1-3 lands).

Greenbelt Plan (2017)

The subject parcel is designated 'Tender Fruit & Grape Lands' within the Greenbelt Plan's Protected Countryside.

Policy 4.5 states that all existing uses are permitted, including single dwellings on existing lots of record, provided they were zoned for such prior to the Greenbelt Plan coming into force. Expansions to existing buildings which bring the use more into conformity with this Plan are permitted so long as new municipal services are not required and the addition does not expand into key natural heritage / hydrologic features.

The proposed accessory building does not conflict with Greenbelt Plan policy.

Regional Official Plan (Consolidated, August 2014)

The Regional Official Plan designates the subject parcel as ‘Unique Agricultural Area’ as part of the Protected Countryside lands in the Greenbelt Plan.

Pelham Official Plan (2014)

The Town Official Plan designates the subject parcel as ‘Specialty Agricultural’. Policy B2.1.2 states (among other uses) one single detached dwelling is permitted on a vacant lot of record.

Pelham Zoning By-law Number 1136 (1987)

The Town of Pelham Zoning By-law identifies the subject parcel as ‘Agricultural’ (A).

Section 7.7 Requirements for buildings and structures accessory to dwellings

a) Maximum Lot Coverage Required: 1% Request: 2%

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

Minor Variance Test	Explanation
1. The variance is minor in nature.	The proposed accessory lot coverage of 2% is minor overall, despite the parcel size; the variance can be accommodated with minimal impact.
2. The variance is desirable for the development or use of the land.	The proposed accessory lot coverage of 2% is desirable for the use of the land given the parcel size, the relief will offer some more flexibility in terms of property usage and thus, desirability.
3. The variance maintains the general intent and purpose of the Official Plan.	The proposed accessory lot coverages maintain the general intent of the Official Plan in that no negative impacts will be created for any natural heritage feature or neighbouring properties. The variance is appropriate given the site’s rural context and meets the general intent of the Town Official Plan policies.
4. The variance maintains the general intent and purpose of the Zoning By-law.	Increasing the maximum accessory building lot coverage maintains the general intent of the Zoning By-law in that adequate open space remains and will not bother the existing septic field and storm water runoff will be required to be contained on the property as per Town standards.

On November 13th 2018, a notice was circulated to agencies directly affected by the proposed application including internal Town departments (i.e. Public Works, Building, etc.) and all assessed property owners within 60 metres of the property’s boundaries.

To date, the following comments have been received:

- Public Works Department (November 19, 2018)
 - No comments.
- Building Department (November 21, 2018)



- All necessary permits are required prior to construction commencing.
- Fire Department (November 17, 2018)
 - No comments.
- Niagara Region Planning & Development Services (November 26, 2018)
 - No objections.

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

Planning Comments

Planning staff note that the property is 0.64ha (1.57ac) in land area, is not farmed and is considered to be a rural residential lot at this time.

The subject land is surrounded by:

- North – Rural residential dwellings
- East – Rural residential dwellings
- South – Rural residential dwellings
- West – Rural residential dwellings

The subject land is a reasonable distance away from the nearest neighbours and the proposed accessory building would be secondary in orientation to the principle dwelling (located in the rear yard), be surrounded by trees and significant amounts of open amenity space remain for the owners. For these reasons, increasing the allowable accessory building lot coverage will not negatively affect any neighbouring properties. Reasonable spatial separation is maintained through setbacks and storm water runoff shall be contained on-site.

Planning Staff is of the opinion that the application meets the four minor variance tests laid out by the *Planning Act*. The application is consistent with Provincial policies, the Regional Official Plan, and conforms to the general intent of the Town's Official Plan and Zoning By-law.

The authorization of the minor variance is not expected to generate negative impacts for adjacent uses or the community at large. Consequently, Planning Staff recommend that Application File Number A24/2018P be **approved**, subject to the following conditions:

THAT the applicant

- All necessary building permits be obtained prior to construction commencing.

Submitted by,



Curtis Thompson
Planner, B.URPI

Approved by,

Barb Wiens, MCIP, RPP

Director/ Community Planning & Development



Memorandum

Public Works Department - Engineering

DATE: November 19, 2018
TO: Curtis Thompson, Planner
CC: Nancy J. Bozzato , Clerk; Holly Willford, Deputy Clerk; Jason Marr, Director of Public Works
FROM: Xenia Pasiecznik, Engineering Technologist
RE: File A24/2018P
1285 Cream Street

Public Works has completed a review of the minor variance application A24/2018P for relief of Pelham Zoning By-Law 1136(1987), as amended. The application is made to seek relief from the following:

- Section 7.2 (a) – “Maximum Lot Coverage” for accessory building to permit 2% lot area coverage where as 1% is allowed;

Public Works has no comments.

From: [Shannon Larocque](#)
To: [Curtis Thompson](#); [Holly Willford](#)
Subject: FW: comments
Date: November 20, 2018 8:45:01 AM

FYI

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From: Bob Lymburner <BLymburner@pelham.ca>
Sent: Saturday, November 17, 2018 9:04 AM
To: Shannon Larocque <SLarocque@pelham.ca>
Subject: comments

Good morning, the following properties have no comment from Fire

1. 46 Bacon Lane
2. 66 Philmori
3. 1285 Cream street

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File: A24/2018P

Nov. 21, 2018

Address: Part Lot 11,

1285 Cream St., Pelham

Owner: James Terrence Duffy

Nancy Bozzato

Town Clerk/Secretary-Treasurer

The Building Department offers the following comment,

- A building permit must be obtained prior to construction commencing.
- I believe the proposed barn is 62.05sqm(668sf), it shows as 675sqm, which would require a 13.64% total lot coverage and a 11.6% accessory building coverage, not the 2% proposed lot area coverage asked for.

Belinda Menard

Building Intake/Plans Examiner

Community Planning & Development

November 26, 2018

File: D.17.08.MV-18-073

By Email Only

Ms. Nancy Bozzato
Secretary-Treasurer of the Committee of Adjustment
Town of Pelham
20 Pelham Town Square, P.O. Box 400
Fonthill, Ontario
L0S 1E0

Dear Ms. Bozzato:

RE: Application for Minor Variance
Location: 1285 Cream St
Owner: James Terrence Duffy
Proposal: Increase Macimum Lot Coverage to permit an accessory structure
Your File: A24/2018P

Regional staff has reviewed the Minor Variance Application for an increase in maximum lot coverage from 1% to 2% to permit an accessory building. Regional Staff offers the following comments to assist the Committee in their consideration of the minor variance application.

Provincial and Regional Policy

The Provincial Policy Statement (PPS) designates the subject land as within a “prime agricultural area” and more specifically as a “specialty crop area”. The Provincial Greenbelt Plan designates the area Protected Countryside (Niagara Peninsula Tender Fruit and Grape Area). The subject property is outside of the Urban Area Boundary for the Town of Pelham according to the Regional Official Plan. The lands are designated Unique Agricultural Area (Good Tender Fruit and Good Grape Area) on the Region’s Agricultural Land Base Map.

The Greenbelt Plan and ROP permit single dwellings on existing lots of record zoned for such use prior to the Greenbelt Plan coming into force (December 16, 2004). The ROP and Greenbelt Plan permit agricultural uses, single dwellings and accessory structures and uses, provided that new municipal services are not required and the use does not expand into key natural heritage features.

Private Sewage Systems

A septic permit has recently been approved by the Region for a new sewage system on the property, which is located on the east side of the house. Based on the plan submitted

for the proposed storage barn, the new building will meet the minimum setback requirement of 5 metres to the septic system. Sufficient usable land also appears available for any future repair or replacement of the sewage system which may be required.

Therefore, there is no objection to the proposed storage barn as shown on the attached plan, provided that the minimum Building Code setbacks of 1.5 metres (septic tank) and 8 metres (tile bed) are met, and that no plumbing or living space is included with the proposed building. Please see the attached plan for reference..

Core Natural Heritage Systems

Regional Core Natural Heritage mapping identifies portions of Environmental Conservation Area associated with Significant Woodlands on and adjacent to the subject property. As per Regional Official Plan Policy 7.B.1.11 and Table 7-1, development within 50 metres of Significant Woodlands triggers the requirement for an Environmental Impact Study (EIS) to demonstrate there will be no significant negative impact on the woodland or its ecological function over the long term. However, the Region's EIS Guidelines permit waiving of the EIS requirement provided other criteria are met for small-scale developments. In this case, criteria "e" can be applied which currently permits accessory structures in an existing lot of record in a woodland. As such, the requirement for an EIS can be waived and no further study is requested.

Conclusion

Regional Planning and Development Services staff has no objection to the Minor Variance application, as the proposed changes will not impact any Regional or Provincial interest as the proposal does not require new municipal services and the use does not expand into key natural heritage features.

Should you have any questions concerning the above noted comments, please contact me at 905-685-4225 extension 3518 or Jennifer Whittard, Manager of Environmental Planning, at extension 3430.

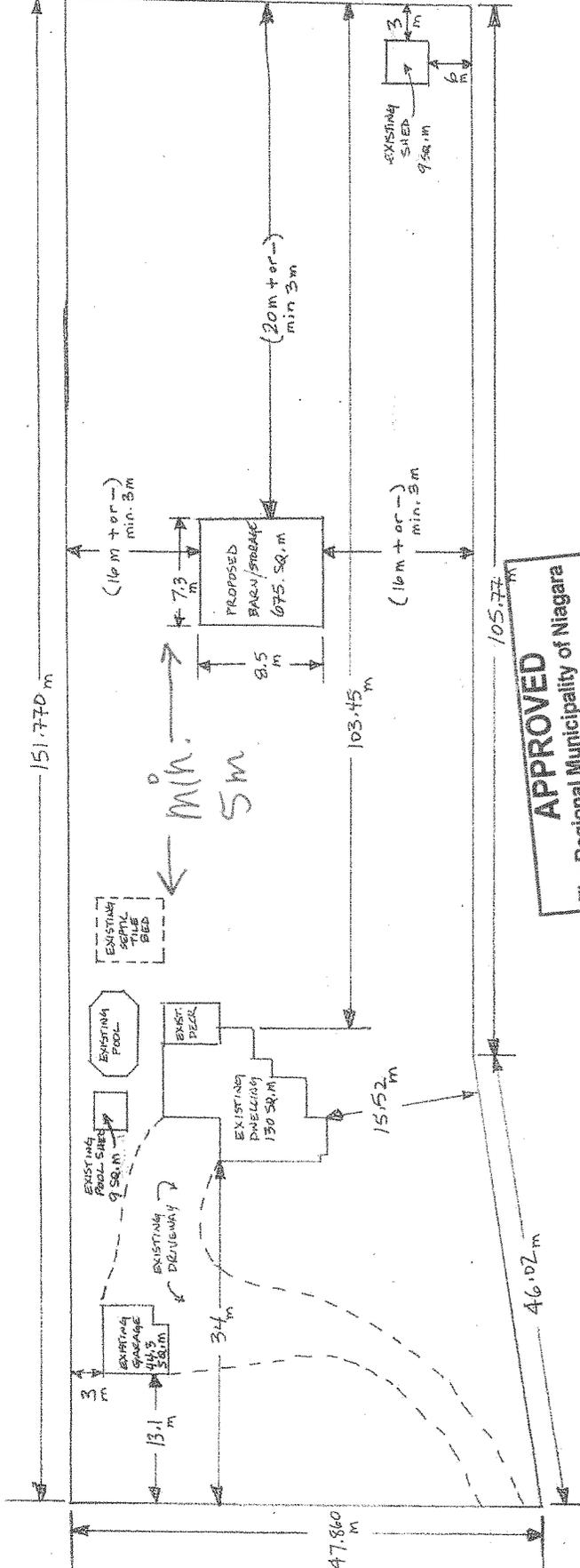
Please send notice of the Committee's decision on this application.

Sincerely,

Alexsandria Pasquini
Development Planner

cc: Mr. Aaron Butler, MCIP, RPP, Senior Development Planner (Niagara Region)
Mrs. Jennifer Whittard, Manager of Environmental Planning (Niagara Region)
Ms. Tanya Calligan (Killins), Private Sewage System Inspector (Niagara Region)

Attachments: Private Sewage System Plan



APPROVED
 The Regional Municipality of Niagara
 NOV 15 2018
 PLANNING AND
 DEVELOPMENT SERVICES

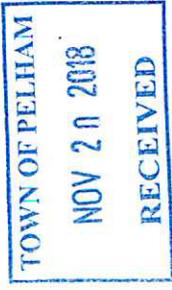
PROPOSED MINOR VARIANCE

PART OF LOT 11, CONCESSION 9
 TOWNSHIP OF BELHAM IN THE TOWN OF PELHAM
 (PART 3, PLAN 59 R - 11124)

OWNER - JAMES BUEFF NOVEMBER 5, 2018

November 20, 2018

Town of Pelham Comm. Of Adjustment
20 Pelham Town Square P.O. Box 400
Fonthill, ON L0S 1E0



ATTN: Nancy J. Bozzato AMCT
Town Clerk/ Sec. Treas.

Dear Ms. Bozzato

Further to your notice regarding File A24/2018P for James Terrence Duffy.

I have attached 3 sketches of how I would like to see this matter resolved. I am not objecting to the shed nor the fact that lot coverage exceeds 1%. I do have a problem with the shed/barn being a large eyesore and that no landscaping/tree plantings are included. The best option is moving the shed closer to Mr. Duffy's residence and doing planting all along the southern boundary of his property. This will protect the privacy of abutting properties and reduce the amount of driveway and traffic to the barn.

Sincerely,


Mike Hassani

Nov. 20th 2018


Jenan Hassani

Nov. 20th, 2018

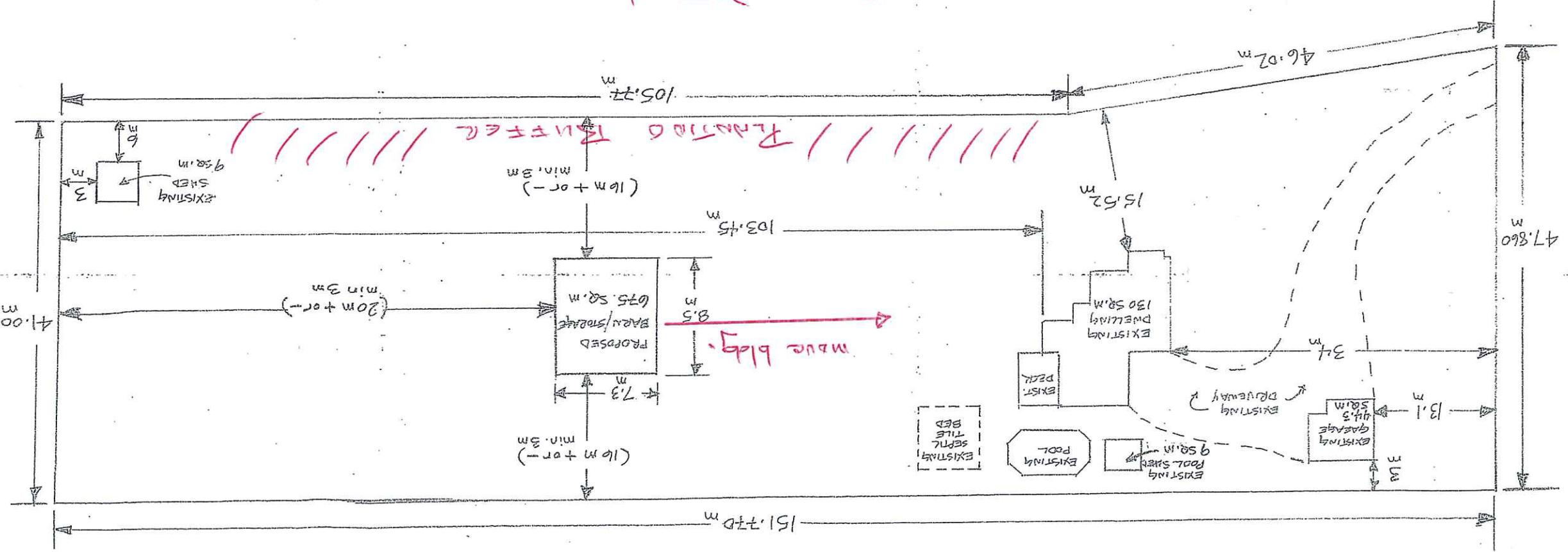
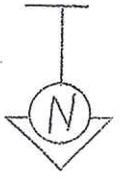
 Canboro Road
Fenwick


OWNER - JAMES PUFFY NOVEMBER 5, 2018

(PART 3, PLAN 59 R - 1124)
TOWNSHIP OF BELLEVILLE IN THE TOWN OF PELHAM
PART OF LOT 11, CONCESSION 9

PROPOSED MINOR VARIANCE

BEST OPTION



Option A 25

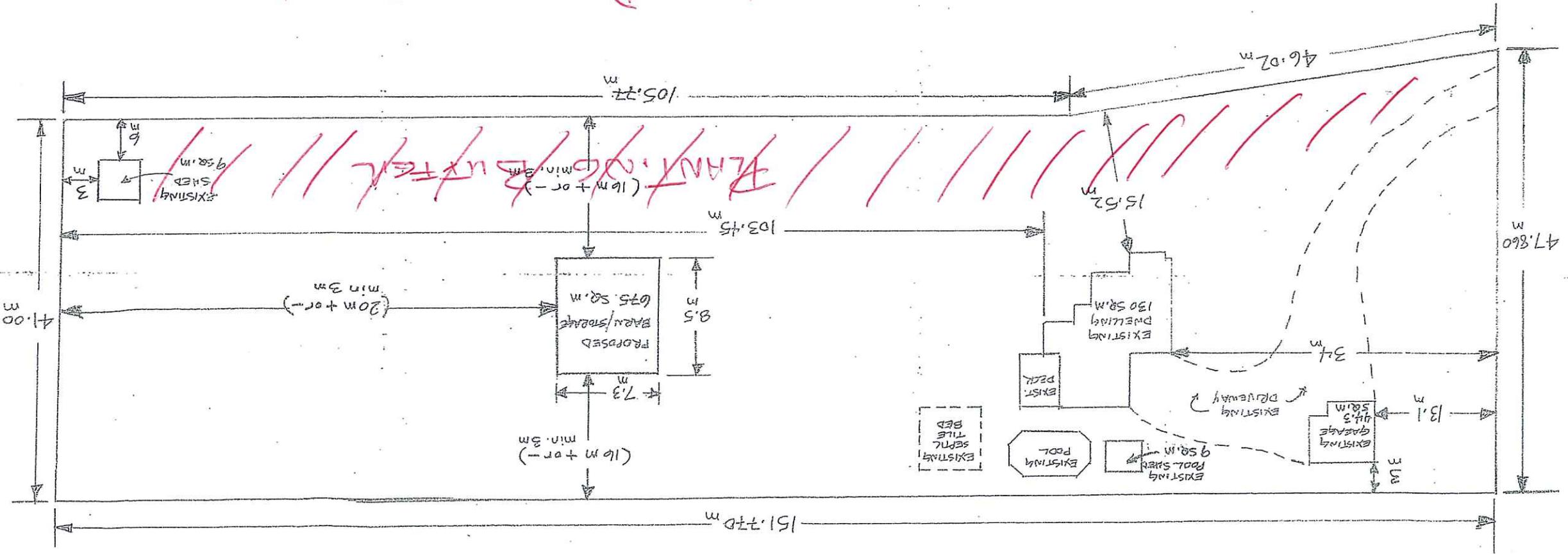
OWNER - JAMES BUEFFY NOVEMBER 5, 2018

(PART 3, PLAN 59 R - 11124)
TOWNSHIP OF BELLAIR IN THE TOWN OF PELHAM
PART OF LOT 11, CONCESSION 9

PROPOSED MINOR VARIANCE



LEAST DESIRABLE OPTION



OPTION 2

December 4, 2018

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

**Re: Minor Variance Application A25/2018P (William Fordy & Nicole Noonan)
66 Philmori Boulevard, Pelham
Plan 59M-403, Lot 102
Roll No. 2732 020 010 03502**

The subject land is located on the north side of Philmori Boulevard, lying west of Buckley Terrace, being Lot 102 in Plan 59M-403, and known municipally as 66 Philmori Boulevard in the Town of Pelham.

The subject land is zoned 'Residential 1-187' (R1-187) in accordance with Pelham Zoning By-law 1136 (1987), as amended by By-law No. 3325 (2012) and 3402 (2013). The minor variance application requests relief from:

- **Section 30. (Exceptions) 187. (g) "Minimum Rear Yard"** to allow a minimum rear yard setback of 13m whereas 15m is required.
- **Section 30. (Exceptions) 187. (k) "No structures, including swimming pools, shall be permitted within 15m of the rear lot line"** to allow an uncovered deck to be constructed up to 13m from the rear lot line whereas 15m is required.

Applicable Planning Policies

Provincial Policy Statement (PPS), 2014

The lands are located within the 'Settlement Area' according to the Provincial Policy Statement.

Growth Plan for the Greater Golden Horseshoe, 2017

No direct policies of the Growth Plan speak to uses such as decks.

Regional Official Plan (Consolidated, August 2014)

The Regional Official Plan designates the subject parcel as 'Designated Greenfield Area' within the Urban Area Boundary.

Policy 11.A.2 states that the Region encourages the development of attractive, well designed residential development that:

- j) Creates or enhances an aesthetically pleasing and functional neighbourhood.

Pelham Official Plan, 2014

The subject land is located within the 'North West Fonthill Secondary Plan' area of the Town Official Plan and designated 'Low Density Residential – Special Policies' which permits single detached dwellings on large lots.

Pelham Zoning By-law Number 1136 (1987)

The Zoning By-law identifies the subject parcel as 'Residential 1-187' (R1-187).

Section 30. (Exceptions) 187. Regulation for dwellings:

- g) Minimum Rear Yard Required: 15m Request: 13m
 k) Notwithstanding any provisions of Zoning By-law No. 1136 (1987) to the contrary, no buildings or structures, including but not limited to, storage sheds, garages, pool houses, swimming pools, decks and gazebos, shall be permitted within 15m of the rear lot line.

Request: 13m

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

Minor Variance Test	Explanation
1. The variance is minor in nature.	Reducing the 15m rear yard setback exclusion for structures to 13m is minor overall due to the deck upholding the 7.5m stable top-of-bank setback and no adverse impacts are anticipated by reducing this setback.
2. The variance is desirable for the development or use of the land.	The variance is desirable for the subject land because the rear yard amenity area is being maintained, and the installation of an uncovered deck attached to the dwelling is considered to be part of, and enhance the overall private amenity area.
3. The variance maintains the general intent and purpose of the Official Plan.	It is the intent of the Official Plan to permit dwellings units in an environmentally sound manner, including the protection of the interpretive and scenic values of the surrounding Niagara Escarpment and woodlands landscape. The requested variance will have minimal impact on the landscape and maintains the intent of the Official Plan.
4. The variance maintains the general intent and purpose of the Zoning By-law.	The variance maintains the purpose of the Zoning By-law because a sufficient setback is maintained to the woodland and stable top-of-bank.

On November 14th 2018, a notice was circulated to agencies directly affected by the proposed application including internal Town departments (Public Works, Building, etc.) and all assessed property owners within 60 metres of the property's boundaries.

To date, the following comments have been received:



- Building Department (November 21, 2018)
 - A building permit must be obtained prior to construction commencing.
- Public Works Department (November 23, 2018)
 - No comments.
- Fire & By-law Services (November 17, 2018)
 - No comments.
- Niagara Peninsula Conservation Authority (November 28, 2018)
 - No objections.
- Niagara Region Planning & Development Services (November 29, 2018)
 - No concerns.

No comments were received from the public.

Planning Comments

Planning Staff visited the site's neighbourhood and don't foresee any adverse impacts to the neighbourhood as a result from this minor variance. The overall scale of the proposed deck, as shown on the site plan will not negatively impact the adjacent woodland, will not compromise the nearby top-of-bank / steep slope, will not obstruct lot drainage operations, or the enjoyment of the rear yard.

Planning Staff is of the opinion that the application meets the four minor variance tests laid out by the Planning Act. The subject application is consistent with Provincial policies, the Regional Official Plan, and conforms to the general intent of the Town's Official Plan and Zoning By-law.

The authorization of the minor variance is not expected to generate negative impacts on adjacent uses and on the community at large. Consequently, Planning Staff recommend that Application File Number A25/2018P **be approved** subject to the following:

THAT

- All necessary building permits be obtained prior to construction commencing.

Submitted by,



Curtis Thompson
Planner, BURPI

Approved by,

Barb Wiens, MCIP, RPP

Director of Community Planning & Development

Memorandum

Public Works Department - Engineering

DATE: July 20, 2018
TO: Curtis Thompson, Planner
CC: Nancy J. Bozzato , Clerk; Holly Willford, Deputy Clerk; Derek Young, Manager of Engineering
FROM: Matthew Sferrazza, Engineering Technologist
RE: File A25/2018P
66 Philmori Boulevard

Public Works has completed a review of the minor variance application A25/2018P for relief of Pelham Zoning By-Law 1136(1987), as amended. The application is made to seek relief from the following:

- Section R1-187 (g) – “Minimum Rear Yard” to permit a minimum rear yard setback of 13 meters whereas 15 meters is allowed.
- Section R1-187 (k) – “Building and Structures to Rear Lot Line” to permit buildings and structures to be constructed within 13 meters of the rear lot line whereas 15 meters is required.

Public Works has no comments.

From: [Shannon Larocque](#)
To: [Curtis Thompson](#); [Holly Willford](#)
Subject: FW: comments
Date: November 20, 2018 8:45:01 AM

FYI

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From: Bob Lymburner <BLymburner@pelham.ca>
Sent: Saturday, November 17, 2018 9:04 AM
To: Shannon Larocque <SLarocque@pelham.ca>
Subject: comments

Good morning, the following properties have no comment from Fire

1. 46 Bacon Lane
2. 66 Philmori
3. 1285 Cream street

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File: A24/2018P

Nov. 21, 2018

Address: Part Lot 11,

1285 Cream St., Pelham

Owner: James Terrence Duffy

Nancy Bozzato

Town Clerk/Secretary-Treasurer

The Building Department offers the following comment,

- A building permit must be obtained prior to construction commencing.
- I believe the proposed barn is 62.05sqm(668sf), it shows as 675sqm, which would require a 13.64% total lot coverage and a 11.6% accessory building coverage, not the 2% proposed lot area coverage asked for.

Belinda Menard

Building Intake/Plans Examiner

Community Planning & Development

Curtis Thompson

From: Sarah Mastroianni <smastroianni@npca.ca>
Sent: November-28-18 1:50 PM
To: Curtis Thompson
Cc: Labbe, Adele
Subject: RE: Minor Variance - 66 Philmori Bv
Attachments: A25-2018 66 Philmori - Application.pdf; A25-2018 66 Philmori - Notice.pdf; A25-2018 66 Philmori - Site Grading Plan.pdf; A25-2018 66 Philmori - Deck Elevation Plan.pdf

Hi Curtis,

NPCA staff would have no objections to the encroachment of the deck within the 15m rear yard setback. It should be noted however, that the original reason behind the 15m setback at the zoning stage was to protect the significant woodland in the rear of those lots. The matter of protecting the Significant Woodland is the responsibility of the Region of Niagara now. As such, I have copied Adele Labbe, Senior Environmental Planner with the Region so she is aware of this application.

Adele,

FYI, just to try and stay consistent. In the past, NPCA staff had visited this area for a similar variance along this stretch of the road. At the time, staff (Adam Boudens) determined that a 5m buffer was sufficient for decks to ensure protection of the woodland.

Thank you.

Sarah Mastroianni
Planning and Permits Administrator
Niagara Peninsula Conservation Authority
250 Thorold Road West, 3rd Floor
Welland, Ontario L3C 3W2
Phone: 905 788 3135 (ext. 249)
Fax: 905 788 1121
email: smastroianni@npca.ca

From: Curtis Thompson [<mailto:CThompson@pelham.ca>]
Sent: Wednesday, November 28, 2018 12:05 PM
To: Sarah Mastroianni <smastroianni@npca.ca>
Subject: Minor Variance - 66 Philmori Bv

Hi Sarah,

Just following up on my voicemail to you. Apologize if our staff did not circulate this to you cause it should have. Will you have similar comments from when you reviewed the previous rear yard encroachments on the same street earlier this year?

Best,



Curtis Thompson, B.URPI
Planner
**Community Planning &
Development**

e: cthompson@pelham.ca
p: 905.892.2607 x324
pelham.ca

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Curtis Thompson

From: Whittard, Jennifer <Jennifer.Whittard@niagararegion.ca>
Sent: November-29-18 3:41 PM
To: Curtis Thompson
Cc: Pasquini, Alex; Labbe, Adele
Subject: RE: Minor Variance - 66 Philmori Bv
Attachments: A25-2018 66 Philmori - Application.pdf; A25-2018 66 Philmori - Site Grading Plan.pdf

Hi Curtis,

Further to your inquiry regarding 66 Philmori Boulevard, Pelham (application attached), Regional Environmental Planning staff have no concerns regarding the proposed reduction of the 15m rear yard setback to 13m. As per the September 27, 2012 comments submitted by the Niagara Peninsula Conservation Authority (NPCA) on the Region's behalf, the intent of the recommended 15m setback was to protect the Environmental Conservation Area (ECA) associated with Significant Woodland at the rear of the property. Given that a 10m buffer from the dripline of mature trees is typically required to adequately protect the root system of those trees to be maintained, staff are satisfied that construction of the deck will not negatively impact the woodland and no further study is requested.

Thanks,
Jen

Jennifer Whittard, B.E.S., PMP
Manager, Environmental Planning
Planning and Development Services, Niagara Region
Phone: 905-980-6000 ext. 3430 Toll-free: 1-800-263-7215
Cell: 289-668-4812
www.niagararegion.ca

From: Labbe, Adele <Adele.Labbe@niagararegion.ca>
Sent: Thursday, November 29, 2018 2:10 PM
To: Whittard, Jennifer <Jennifer.Whittard@niagararegion.ca>
Subject: FW: Minor Variance - 66 Philmori Bv

Thank you,
Adèle

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