

Committee of Adjustment **AGENDA**

Committee of Adjustment Hearing 6/2015

Wednesday, September 09, 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. **Applications for Minor Variance**
 - 5.1. **File A7/2015P - Glen Hunt and Kim Day**

Comments:

 1. File A7/2015P - Town Planning Report
 2. File A7/2015P - Town Building Dept
 3. File A7/2015P - Regional Development Services
 - 5.2. **File A7/2015P Glen Hunt and Kim Day**
6. **Applications for Consent**
 - 6.1. **File B7/2015P - Wayne S. Leibau, Trustee**

Comments:

 1. File B7/2015P - Town Planning Report
 2. File B7/2015P - Town Building Dept
 3. File B7/2015P - Regional and Provincial
 4. File B7/2015P - Conservation
 5. File B7/2015P - Hydro One
 - 6.2. **File B7/2015P Wayne S. Leibau, Trustee**
 - 6.3. **File B8/2015P Fonthill Gardens (2015) Inc.**

Comments:

 1. File B8/2015P - Town Planning Dept.

2. File B8/2015P - Town Building Dept.

6.4. File B8/2015P Fonthill Gardens (2015) Inc.

7. Minutes for Approval

8. Adjournment



September 3, 2015

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

Dear Mrs. Bozzato:

**Re: Minor Variance Application A7/2015P (Glen Hunt & Kim Day)
812 Twenty Road, Pelham, ON
Part Lot 16, Concession 1, Pelham, ON
Roll No. 273201000800901**

The subject application is for a minor variance from Section 7.4(f) of Zoning By-law Number 1136 (1987), as amended, to permit an easterly side yard setback of 2.68 metres (8.79 feet) whereas 9 metres (29.53 feet) is required.

Relief is requested to facilitate the construction of a new garage and covered breezeway (refer to Appendix 1). The effective purpose of the minor variance is to reduce the side yard by 73.2 percent (73.2%).

The subject parcel is located on the south side of Twenty Road (Regional Road 69) lying east of Victoria Avenue (Regional Road 24), being Part Lot 16, Concession 1 in the Town of Pelham and known municipally as 812 Twenty Road.

Applicable Planning Policies

Provincial Policy Statement (2014)

The Provincial Policy Statement (PPS) designates the subject parcel as land within a 'Prime Agricultural Area'. The permitted uses in 'Prime Agricultural Areas' under the PPS are: agricultural uses, agricultural –related uses and on-farm diversified uses.

Greenbelt Plan (2005)

The Greenbelt Plan (2005) designates the subject parcel as 'Specialty Crop Area' in the 'Protected Countryside'. Policy 3.1.2.1 states that a full range of agricultural, agriculture-related and secondary uses are supported and permitted on 'Specialty Crop Area' lands.

Policy 4.5.2 states that single dwellings are permitted on existing lots of record, provided they were zoned for such as of the date of the Greenbelt Plan came into force.



Regional Official Plan (Consolidated, August 2014)

The Regional Official Plan (Consolidated, August 2014) designates the subject parcel as 'Protected Countryside' and 'Unique Agricultural Area'. Policy 5.B.6 states that single dwellings are permitted on existing lots of record provided they were zoned for such as of December 16, 2004.

Town Official Plan (2014)

The Town's Official Plan, 2014 designates the subject parcel as 'Specialty Agricultural' and 'Environmental Protection One'. The permitted uses in the 'Specialty Agricultural' designation include: agricultural uses; farm wineries (subject to Policy B2.1.3.11); single detached dwellings; accessory residential uses on farm properties (subject to Policy B2.1.3.5); bed and breakfast establishments (subject to Policy B2.1.3.6); home occupations and home industries (subject to Policy B2.1.3.7); mineral aggregate operations (subject to Policy B2.5.3.5); forestry and other resource management uses; retail commercial uses (subject to Policy B2.1.3.8); and, agricultural related exhibitions and tourism establishments (subject to Policy B2.1.3.9).

The permitted uses in the 'Environmental Protection One' designation include: forest, fish and wildlife management uses; conservation, flood control projects and agricultural drains where it has been demonstrated that they are necessary, in the public interest and other alternatives are not available; small-scale, passive recreational uses such as trails, fences, docks, and picnic facilities that will have no negative impact on natural features or on the ecological functions of such features; and, mineral aggregate operations may be permitted within a Provincially Significant Life Science ANSI subject to demonstrating no negative impact to the feature or its ecological functions and also subject to Section B2.5 of the Official Plan.

Town Zoning By-law No. 1136 (1987)

The Town of Pelham's Zoning By-law No. 1136 (1987), as amended, identifies the subject parcel as 'Agricultural' (A) and 'Hazard' (H). The permitted uses in the 'Agricultural' Zone include: agricultural uses including greenhouses; seasonal or permanent farm help houses on farms larger than 10 hectares (24.71 acres); one single detached dwelling on one lot; home occupations; kennels; animal hospitals; uses, buildings and structures accessory to the foregoing permitted uses; and, forestry and conservation uses.

The permitted uses in the 'Hazard' Zone include: agricultural uses; forestry, conservation and flood control uses and works; public recreational uses; existing uses; uses, buildings and structures accessory thereto, excluding accessory residential buildings; and, on privately owned lands, private passive yard use incidental to a permitted use in an abutting zone.

The proposed garage and covered breezeway will be constructed entirely within the northern portion of the subject parcel, which is zoned 'Agricultural' (A).

Minor Variance Test	Explanation
1. The variance is minor in nature.	<p>Given the location of the subject property and size of adjacent lots, Planning staff are of the opinion that the variance is considered minor. The side yard setback will be adjusted from the zone requirement to accommodate the construction of a breeze-way and garage for the storage of personal goods.</p> <p>Planning Staff are of the opinion that there shall not be a negative impact on adjacent properties as there will be sufficient amenity space provided around the proposed garage and breeze-way. This will provide sufficient space for future maintenance. There also appears to be mature trees located east of the proposed garage on the adjacent property. This will maintain privacy between neighbours.</p>
2. The variance is desirable for the development or use of the land.	<p>The variance is considered desirable for the development or use of the land in that the side yard setback will maintain the amenity area of the subject property and shall not increase shadowing onto adjacent properties. The subject property is also surrounded by similar lots with rural residential dwellings.</p> <p>Planning Staff are of the opinion that the variances will maintain the rural, residential character of the area.</p>
3. The variance maintains the general intent and purpose of the Zoning By-law.	<p>The variance maintains the general intent and purpose of the Zoning By-law as the reduction in the side yard setback requirement for the proposed garage and breeze-way are minor in nature and are of an appropriate scale given the rural residential character of the area.</p> <p>The proposed development is located entirely within the 'Agricultural' (A) Zone and is a permitted use in the Town's Zoning By-law.</p>
4. The variance maintains the general intent and purpose of the Official Plan.	<p>The variance maintains the general intent and purpose of the Official Plan as the use is permitted in the 'Specialty Agricultural' designation.</p>

On July 31st, 2015, a notice was circulated to agencies directly affected by the proposed application including internal Town departments (i.e. Public Works and Building) 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:

- The Niagara Peninsula Conservation Authority (NPCA) comments, dated August 21, 2015, offer no objections to the proposal (refer to Appendix 3).
- The Department of Public Works comments, dated September 1, 2015, offer no objections to the proposal provided that grading and drainage do not negatively impact neighbouring properties (refer to Appendix 4).
- The Building Department comments, dated August 27, 2015, offer no objections to the proposal (refer to Appendix 5).



No comments were received from the public.

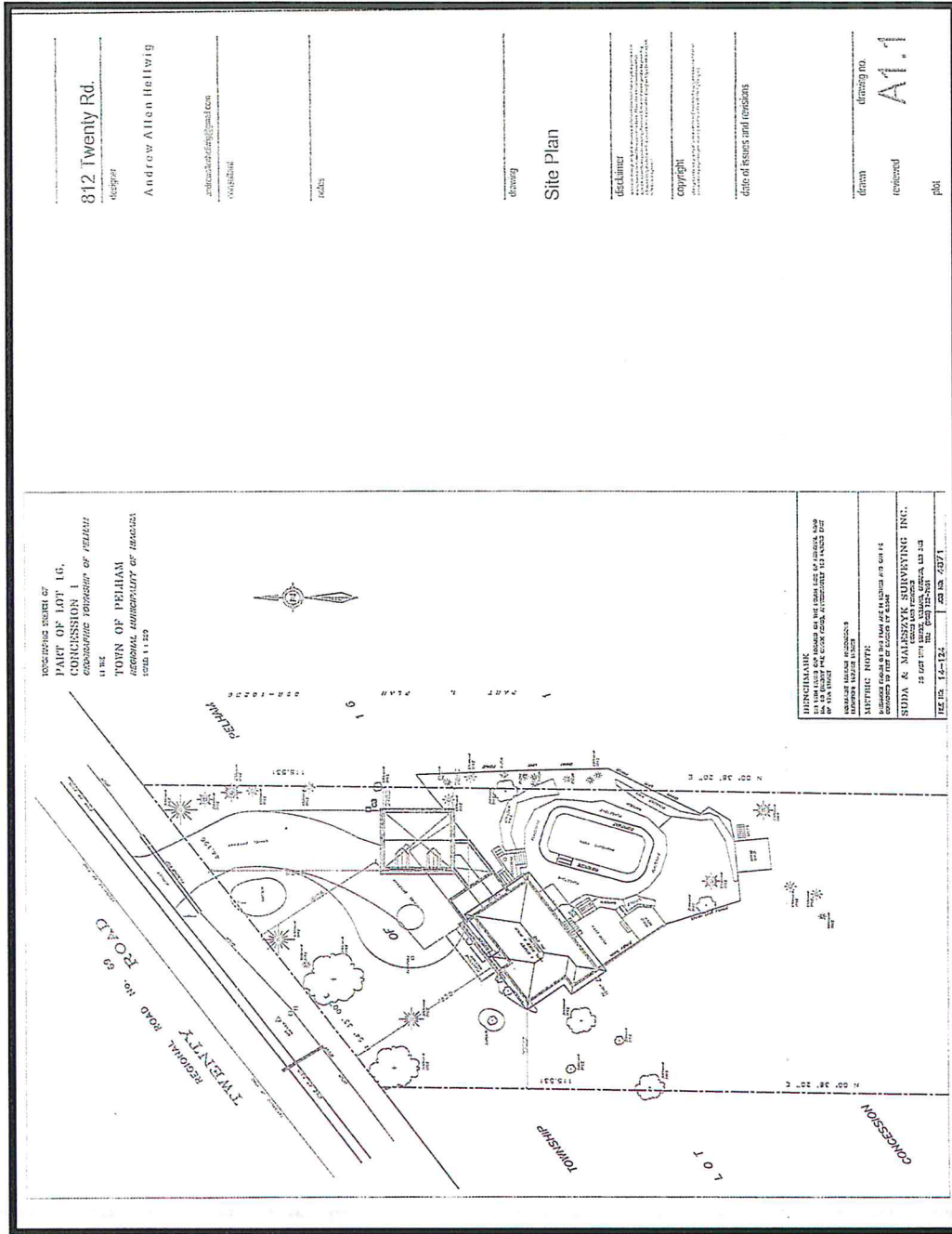
Planning Staff is of the opinion that the application meets the tests required to permit a minor variance and it is consistent with Provincial policies and Regional Official Plan, and complies with the general purpose and intent of the Town's Official Plan and Zoning By-law. The authorization of the minor variance is not expected to generate negative impacts on adjacent uses and on the community as a whole. Consequently, Planning Staff recommend that Application File A7/2015P be approved.

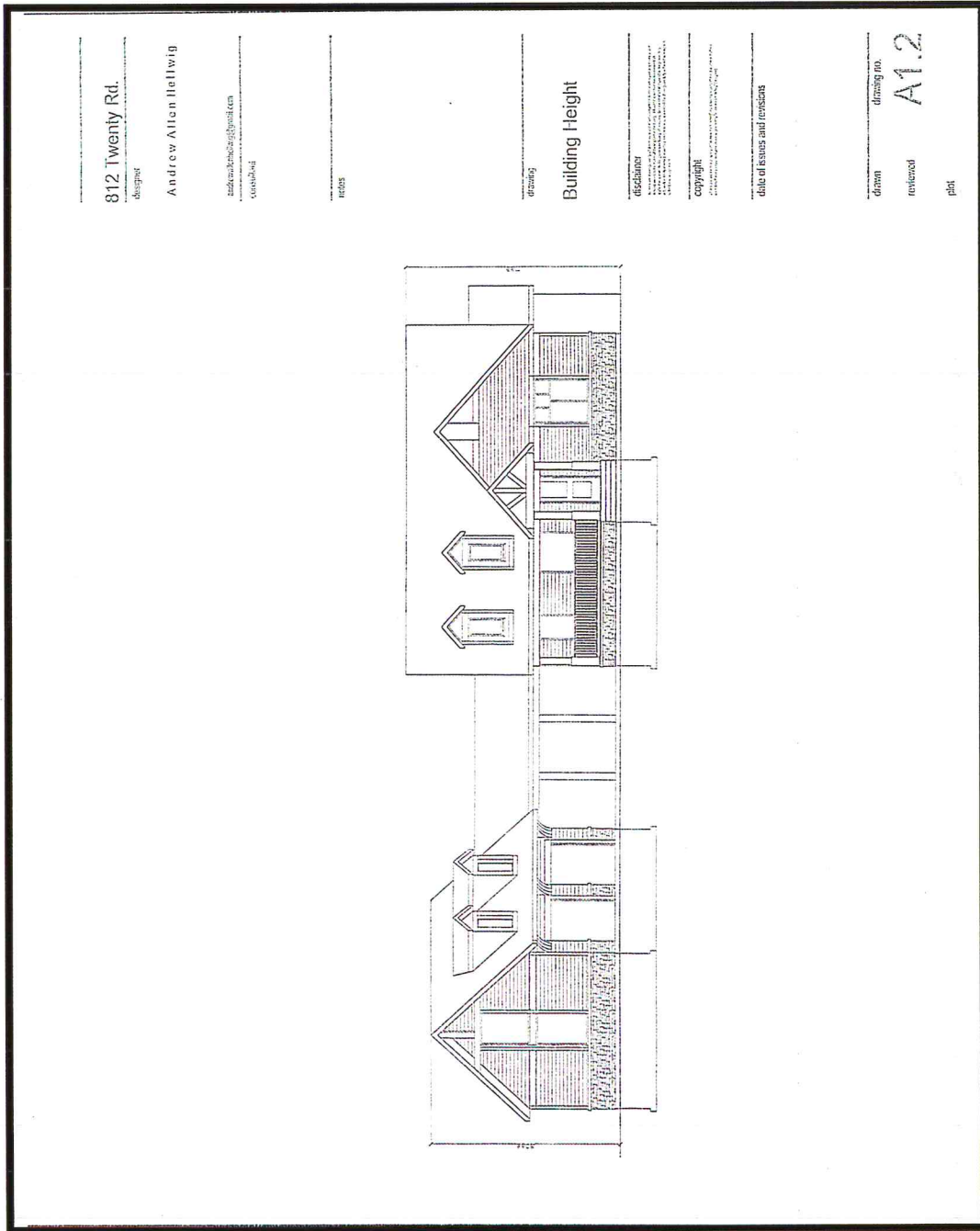
Submitted by,



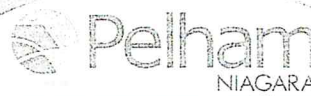
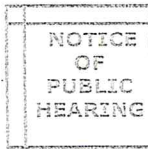
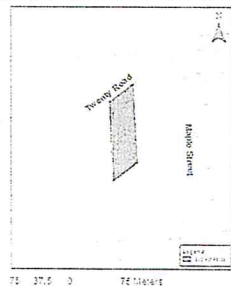




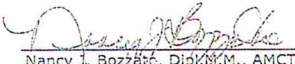
Andrew Gameiro
Planner

Appendix 1: Submitted Site Drawings





Appendix 2: Public Notice

	
In the matter of the Planning Act, R.S.O. 1990, as amended And in the matter of an application for minor variance or permission on behalf of:	
	WHAT: FILE A7/2015P WHO: GLEN HUNT AND KIM DAY Part Lot 16, Concession 1, 812 Twenty Road, Pelham
	WHEN: WEDNESDAY, SEPTEMBER 9, 2015 at 4:00 p.m.
	WHERE: Town of Pelham Municipal Building, Council Chambers 20 Pelham Town Square, Fonthill, Ontario
	Pursuant to Section 45(5) of the Planning Act, Notice is hereby given that an application for minor variance or permission will be heard by the Committee of Adjustment for the Town of Pelham at the date and place shown above.
DESCRIPTION & LOCATION OF SUBJECT LANDS: The subject land is located on the south side of Twenty Road (Regional Road 69) lying east of Victoria Avenue (Regional Road 24), being part of Lot 15, Concession 1 in the former Township of Pelham, now Town of Pelham and known municipally as 812 Twenty Road. The subject land is depicted on the Key Map below and is shown on the sketch accompanying this notice.	
NATURE & EXTENT OF RELIEF / PERMISSION APPLIED FOR: The subject land is zoned Agricultural A in accordance with Pelham Zoning By-law 1136(1987), as amended. Relief from Section 7.4(f) is requested to facilitate construction of a new garage and covered breezeway, having an easterly sideyard setback distance of 2.68 metres whereas 10 metres is required.	
*Key Map not to scale	
	
Information 	WHAT IS THIS? This is a public hearing called for the purpose of hearing evidence for, or in opposition to, the above noted application. Anyone wishing to register objections, approvals or comments concerning this application may present them in writing to the Secretary-Treasurer prior to the hearing and/or at the hearing, or make a verbal presentation at the hearing.
HAVE YOUR SAY 	YOUR INPUT IS ENCOURAGED! WE ARE LISTENING! The Committee would appreciate receiving your written comments regarding this application by AUGUST 27, 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. The applicant or the authorized agent of the applicant MUST 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! TOWN OF PELHAM COMMITTEE OF ADJUSTMENT 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: NJBozzato@pelham.ca
Dated this 31 ST day of July, 2015	
Legal Notice 	IMPORTANT INFORMATION! 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	
Signed:  Nancy J. Bozzato, Dip./M.M., AMCT Town Clerk / Secretary-Treasurer	

From the Department of



Appendix 3: Niagara Peninsula Conservation Authority (NPCA) Comments

Andrew Gameiro

From: Julie Hannah
Sent: August-21-15 11:13 AM
To: Andrew Gameiro
Subject: FW: A72015P 812 Twenty Road



Julie Hannah, BA MES MA
Planner
Community Planning &
Development

e: jhannah@pelham.ca
p: 905.892.2607 x319
pelham.ca

20 Pelham
P.O. Box 400
Fonthill, ON

TOWN OF PELHAM CONFIDENTIALITY NOTICE

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

From: Sarah Mastroianni [<mailto:smastroianni@npca.ca>]
Sent: Friday, August 21, 2015 11:11 AM
To: Nancy Bozzato
Cc: Julie Hannah
Subject: A72015P 812 Twenty Road

Good Morning,

Based on the NPCA's previous comments on the construction of the garage at this property (May 22, 2015), staff have no objections to this proposal.

Thank you.

Sarah Mastroianni
Watershed Planner
Niagara Peninsula Conservation Authority
250 Thorold Road West, 3rd Floor
Welland, Ontario L3C 3W2
Phone: 905 788 3135 (ext. 249)
Fax: 905 788 1121

Appendix 4: Department of Public Works Comments



Memorandum
Public Works Department - Engineering

To: Nancy J. Bozzato, Dipl.M.M., AMCT
From: Xenia Pasiecznik, Engineering Technologist
c.c: Andrea Clemencio, Director of Public Works
Date: September 1, 2015
File #: A7/2015P
Subject: Minor Variance
Glen Hunt and Kim Day
812 Twenty Road, Fonthill

The following submitted drawings have been considered for the purpose of this application:

- Site Plan, undated

Public Works has no objections on the above application, except to stress that grading and drainage cannot negatively impact the neighbouring property. This comment will be communicated to the Building Department, to monitor through the building permit process.

Sincerely,

Xenia Pasiecznik,
Engineering Technologist



20 Pelham Town Square P.O Box 400 · Fonthill, ON L0S 1E0 p: 905.892.2607 f: 905.892.5055
pelham.ca



Appendix 5: Building Department Comments



File: A7/2015P
Address: 812 Twenty Road, Pelham
Agent: Mr. Andrew Hellwig
Owner: Glen Hunt & Kim Day

August 27, 2015

Nancy Bozzato
Town Clerk/Secretary-Treasurer

The Building Department offers the following comments,

- No comments at this time.

Belinda Phillips
Building Intake/Plans Examiner
Community Planning & Development





Vibrant · Creative · Caring

File: A7/2015P

August 27, 2015

Address: 812 Twenty Road, Pelham

Agent: Mr. Andrew Hellwig

Owner: Glen Hunt & Kim Day

Nancy Bozzato

Town Clerk/Secretary-Treasurer

The Building Department offers the following comments,

- No comments at this time.

Belinda Phillips

Building Intake/Plans Examiner

Community Planning & Development



Planning & Development Services

Development Services

2201 St. David's Road W, PO Box 1042, Thorold, ON L2V 4T7

Telephone: 905-685-4225 Toll-free: 1-800-263-7215 Fax: 905-687-8056

www.niagararegion.ca

VIA E-MAIL ONLY

August 28, 2015

Our File: MV-15-032

Nancy J. Bozzato
Secretary-Treasurer
Committee of Adjustment
Town of Pelham
20 Pelham Town Square
Fonthill ON L0S 1E0

Dear Ms. Bozzato:

Re: Application for Minor Variance
Applicant: Kim Day and Glen Hunt
Location: 812 Twenty Road
Town of Pelham
Town File: A7/2015P

Niagara Region Development Services staff has completed a review of information circulated for the above-noted minor variance for a reduction of the easterly side yard setback distance from 10m to 2.68 m to permit the construction of a new garage and covered breezeway. The following comments are provided for information regarding Regional and Provincial interests.

Private Sewage System

The existing sewage system is a Class 4 type (septic tank and leach bed) located in the rear yard southwest of the dwelling. At the time of our inspection, there were no visible defects noted with the leaching bed area. However, the septic tank was located underneath the deck. Deck boards had to be removed to allow access to the tank which does not facilitate the pumping of all compartments of the septic tank. As per Ontario Building Code regulations, easy access to the septic tank lids must be provided to allow for proper maintenance of the tank. Regional staff will follow up with the owners to address the tank access requirements. Although the property is 1 acre in size there is very limited area available for any future upgrades to the sewage system due to a stream which traverses along the southern portion of the property. The requested variance to facilitate the construction of a garage/breezeway as shown on the submitted plan does not impact the existing septic system.

Regional Road Requirements

The application drawings do not appear to indicate any changes to the existing driveway to Twenty Road (Regional Road 69). If alterations to the driveway entrance are proposed within the Regional road allowance, a Regional Construction Encroachment and/or Entrance Permit must be obtained from the Permits Section of the Transportation


Services Division, Public Works Department. Furthermore, survey evidence adjacent to the Regional road allowance is not to be damaged or removed during any development of the property.

Conclusion

In conclusion, staff would offer no objection from a Provincial or Regional perspective to the minor variance application. Please contact me (ext. 3264) or Rick Wilson, Senior Development Planner (ext. 3391) if you have any questions or wish to discuss these comments.

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

Yours truly,



Rattan Seeboruth, P. Eng.
Development Approvals Technician

C. Caitlin Wood, Private Sewage System Inspector



September 3, 2015

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

Dear Mrs. Bozzato:

**Re: Consent (Severance) Application B7/2015P (Wayne S. Leibeau, Trustee)
322 Foss Road, Pelham, ON
Part of Lot 6, Concession 11
Roll No. 273203001702100**

The subject application is for consent to convey 0.40 hectares (1 acre) of land with a dwelling known municipally as 322 Foss Road, as the disposal of a surplus farm dwelling. 40.8 hectares (100.8 acres) of land (Part 2) is to be retained for continued agricultural use. The remnant parcel will be zoned to preclude residential development as a condition of consent in accordance with Provincial Policy.

The subject parcel, shown as Part 1 on the attached sketch (refer to Appendix 1), has 60.35 metres (198 feet) of frontage on the south side of Foss Road, lying 135.25 metres (443.7 feet) west of Effingham Street, being Part of Lot 6, Concession 11, former Township of Pelham, now the Town of Pelham.

Applicable Planning Policies

Provincial Policy Statement (PPS), 2014

The Provincial Policy Statement (PPS) designates the subject parcel as land within a 'Prime Agricultural Area'. The permitted uses in 'Prime Agricultural Areas' under the PPS are: agricultural uses, agricultural-related uses and on-farm diversified uses.

According to Policy 2.3.4.1 of the PPS, lot creation in 'Prime Agricultural Areas' is discouraged and may only be permitted for:

- a) Agricultural uses, provided that the lots are of a size appropriate for the type of agricultural use(s) common in the area and are sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations;
- b) Agriculture-related uses, provided that any new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services;
- c) A residence surplus to a farming operation as a result of farm consolidation, provided that:
 1. The new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and,



2. The planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objectives; and,
 - d) Infrastructure, where the facility or corridor cannot be accommodated through the use of easements or right-of-ways.

The Greenbelt Plan (2005)

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

Regional Official Plan (Consolidated, August 2014)

The Regional Official Plan (Consolidated, August 2014) designates the subject parcel as 'Good General Agriculture Area'. Policy 5.B.8.1 states that in 'Good General Agricultural Areas' consents to convey are permitted if the consent is to convey a residence surplus to a farming operation as a result of a farm consolidation provided new residential dwellings are prohibited in perpetuity on any vacant remnant parcel of land created by the severance. As a condition of severance, the applicant must have the remnant farm parcel rezoned to preclude its use for residential purposes.

Policy 5.B.9 of the Regional Official Plan (Consolidated, August 2014) states that proposed residential lots for consent under the criteria in Policy 5.B.1.8 must meet the following conditions:

- a) Any new lot is of sufficient size and has suitable soil and site conditions for the installation and long-term operation of a private sewage disposal system in compliance with the requirements of the Ministry of Environment, Ministry of Municipal Affairs and Housing or persons appointed on behalf;
- b) Any new lot has an adequate ground or other water supply, in compliance with the requirements of the Ministry of Environment and Medical Officer of Health;
- c) Any new lot has sufficient frontage on an existing publicly-maintained road;
- d) Where possible, joint use should be made of the existing road access to the farm operation;
- e) Road access to any new lot does not create a traffic hazard because of limited sight lines on curves or grades or proximity to intersections;
- f) The size of any new lot shall not exceed 0.4 hectares (1 acre) except to the extent of any additional area deemed necessary to support a well and private sewage disposal system as determined by the Ministry of Environmental, Ministry of Municipal Affairs and Housing, or persons appointed on behalf; and,
- g) The proposed lot should be located to minimize the impact on the remaining farm operation.

Town Pelham Official Plan, 2014

The Town's Official Plan, 2014, designates the subject parcel as 'Good General Agricultural'. According to Policy B2.1.2, the principal use of land in the 'Good General Agricultural' designation shall be agriculture.

In the interest of supporting agri-business through farm diversification, the Official Plan identifies other uses that are considered to be agricultural-related and/or secondary uses on the basis that such uses assist in retaining or adding value to agricultural products or commodities or promote agri-tourism.

From the Department of



**Community Planning
& Development**

The additional permitted uses in the 'Good General Agricultural' designation include: single detached dwellings accessory to a farm business or on a vacant lot of record; accessory residential uses on farm properties (subject to Policy B2.1.3.5); bed and breakfast establishments (subject to Policy B2.1.3.6); home occupations and home industries (subject to Policy B2.1.3.7); forestry and other resource management uses; retail commercial uses on farm properties (subject to Policy B2.1.3.8); passive recreational uses, such as walking trails and nature interpretation centres on lands owned by a public authority; agricultural-related exhibitions and tourism establishments (subject to Policy B2.1.3.9); wineries (subject to Policy B2.1.3.11); mineral aggregate operations (subject to Policy B2.5.3.3); and, wayside pits and quarries and portable asphalt plants for road works in the area (subject to Policy B2.5.3.10).

According to Policy B2.1.3.1, the creation of a new lot from a parcel may be permitted if the lot is to be severed to create a farm or the lot is necessary to accommodate a surplus dwelling resulting from a farm consolidation (subject to Policy B2.1.3.3).

According to Policy B2.1.3.3, existing farm dwellings rendered surplus as a result of a farm consolidation may be severed, regardless if the farm parcels subject to the consolidation are abutting or independent. Applications to sever a surplus farm dwelling shall provide a minimum lot area of 0.4 hectares (1 acre). A larger lot size will be considered if an additional area is necessary to accommodate a private water and sewage disposal system. In addition, it shall be a requirement that the residual or consolidated farm parcel be zoned to preclude future residential use in perpetuity.

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 number 1136 (1897), as amended

The subject parcel is zoned 'Agricultural' (A) according to Zoning By-law No. 1136 (1987), as amended. The 'Agricultural' zone permits the use of the land for: agricultural uses including greenhouses; seasonal or permanent farm help houses on farms larger than 10 hectares; One single detached dwelling on one lot; home occupations; kennels; animal hospitals; uses, buildings and structures accessory to the foregoing permitted uses; and, forestry and conservation uses.

Planning Staff Comments

According to the application and attached survey sketch (refer to Appendix 1), Part 1 contains an existing one (1) storey dwelling and an accessory building, while Part 2 contains an existing two (2) storey dwelling and two accessory buildings. Additionally, Part 2 consists primarily of vacant agricultural land with a woodlot on the south-western corner of the parcel.

The subject parcel is surrounded by similar agricultural operations and rural residential dwellings to the north, east, south and west sides.

With respect to the Official Plan, under Policies B2.1.3.1 and B2.1.3.3, the severed portion of the subject parcel contains a surplus farm dwelling and has a minimum lot area of 0.4 hectares (1 acre). The retained portion of the parcel will also be rezoned to preclude future residential use.

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 Foss Road. In addition, the site does not pose a traffic hazard as there are no visibility concerns due to topography.

Planning staff are 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 private water supply and means of sewage disposal.

The Town's Department of Public Works and Niagara Region Planning and Development Services Department will address drainage and servicing requirements for the subject application. The approval of the application shall be subject to any conditions imposed by the Department of Public Works and Niagara Region Planning and Development Services Department.

The subject application will not affect the agricultural development 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 as a Change of Use Permit was issued on June 14, 2015 for the agricultural building (former dairy barn) located on Part 2 of the attached survey sketch (refer to Appendix 1). The building may be used to store farm equipment, but shall not be used to house livestock.

Planning Staff note that the Niagara Peninsula Conservation Authority's (NPCA) Niagara Natural Environment Information Mapping Screening Area (NNEIMSA) affects the subject parcel. The NPCA will provide comments regarding the environmental features on the subject property.

Any future development on the severed parcel (Part 1) will be subject to a building permit application. As such, future development on the severed parcel must comply with the requirements of the Town's Zoning By-law, Ontario Building Code and all applicable law.

On July 31st, 2015, a notice was circulated to agencies directly affected by the proposed application including internal Town departments (i.e. Public Works, Building, Fire) and all assessed property owners within 120 metres of the property's boundaries (refer to Appendix 2).

From the Department of



**Community Planning
& Development**

To date, the following comments have been received:

- The Niagara Peninsula Conservation Authority (NPCA) comments, dated August 21st, 2015, offer no objections to the application (refer to Appendix 3).
- The Niagara Region Planning and Development services comments, dated August 28, 2015, offer the following conditions of approval:
 - A Zoning By-law Amendment is required for the retained farm parcel (Part 2). The existing zoning on the retained farm parcel (Part 2) must be changed to the Agricultural Purposes Only (APO) zone to preclude the construction of a dwelling in perpetuity.
- The Department of Public Works comments (refer to Appendix 5), dated September 1, 2015, offer no objections to the application.
- The Building Department comments, dated August 27, 2015, offer no objections to the application (refer to Appendix 6).
- Hydro One comments, dated August 11, 2015, offer no objections to the application (refer to Appendix 7).

No comments were received from the public.

Planning Staff is of the opinion that the application for consent to sever is consistent with Provincial policies and Regional Official Plan, and complies with the Town's Official Plan and Zoning By-law. The authorization of the consent is not expected to generate negative impacts on adjacent uses and on the community as a whole. Consequently, Planning Staff recommend that Application File No. B7/2015P be approved, subject to the following conditions:

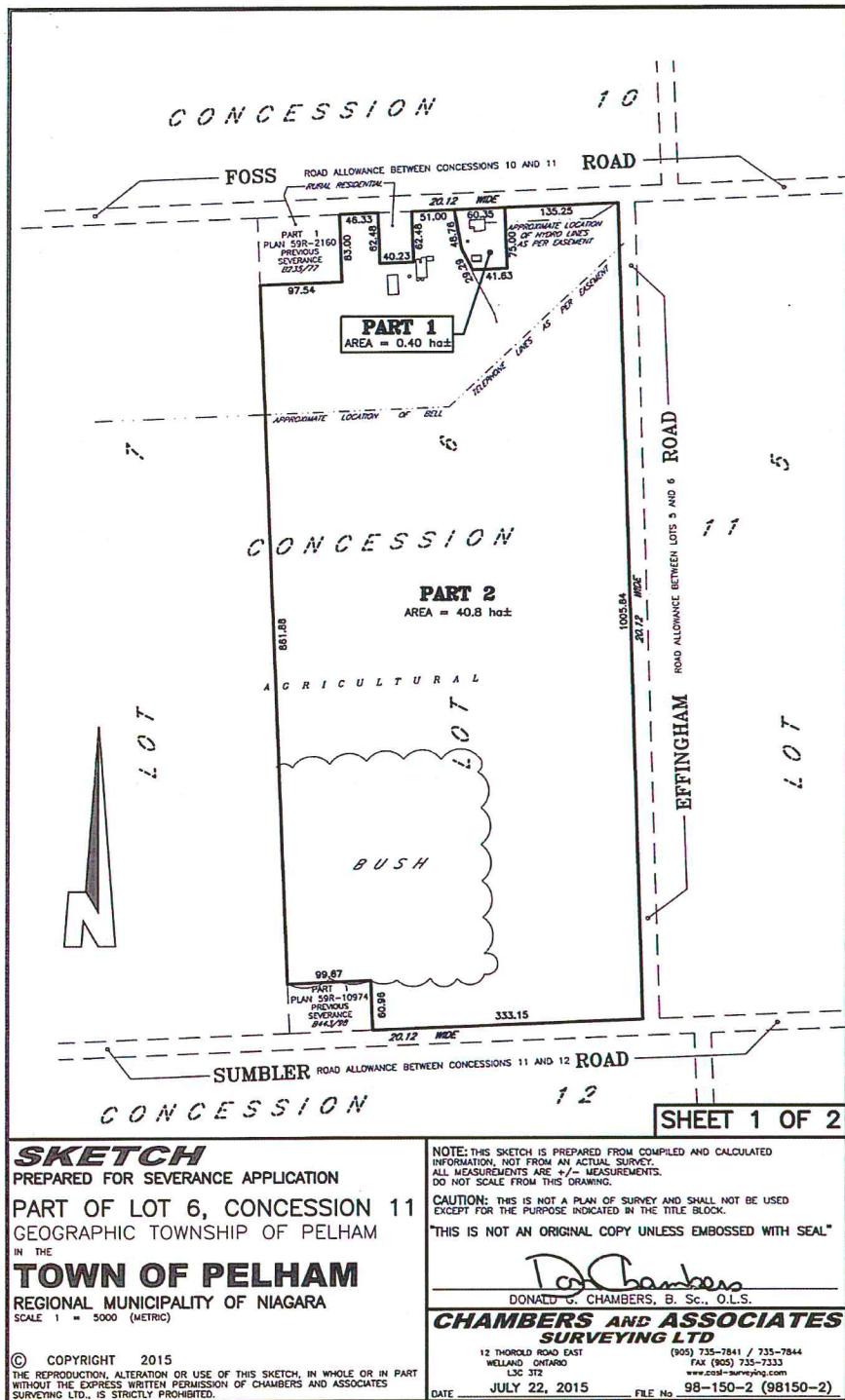
- A Zoning By-law Amendment is required for the retained farm parcel (Part 2). The existing zoning on the retained farm parcel (Part 2) must be changed to the Agricultural Purposes Only (APO) zone to preclude the construction of a dwelling in perpetuity.

Submitted by,



Andrew Gameiro
Planner

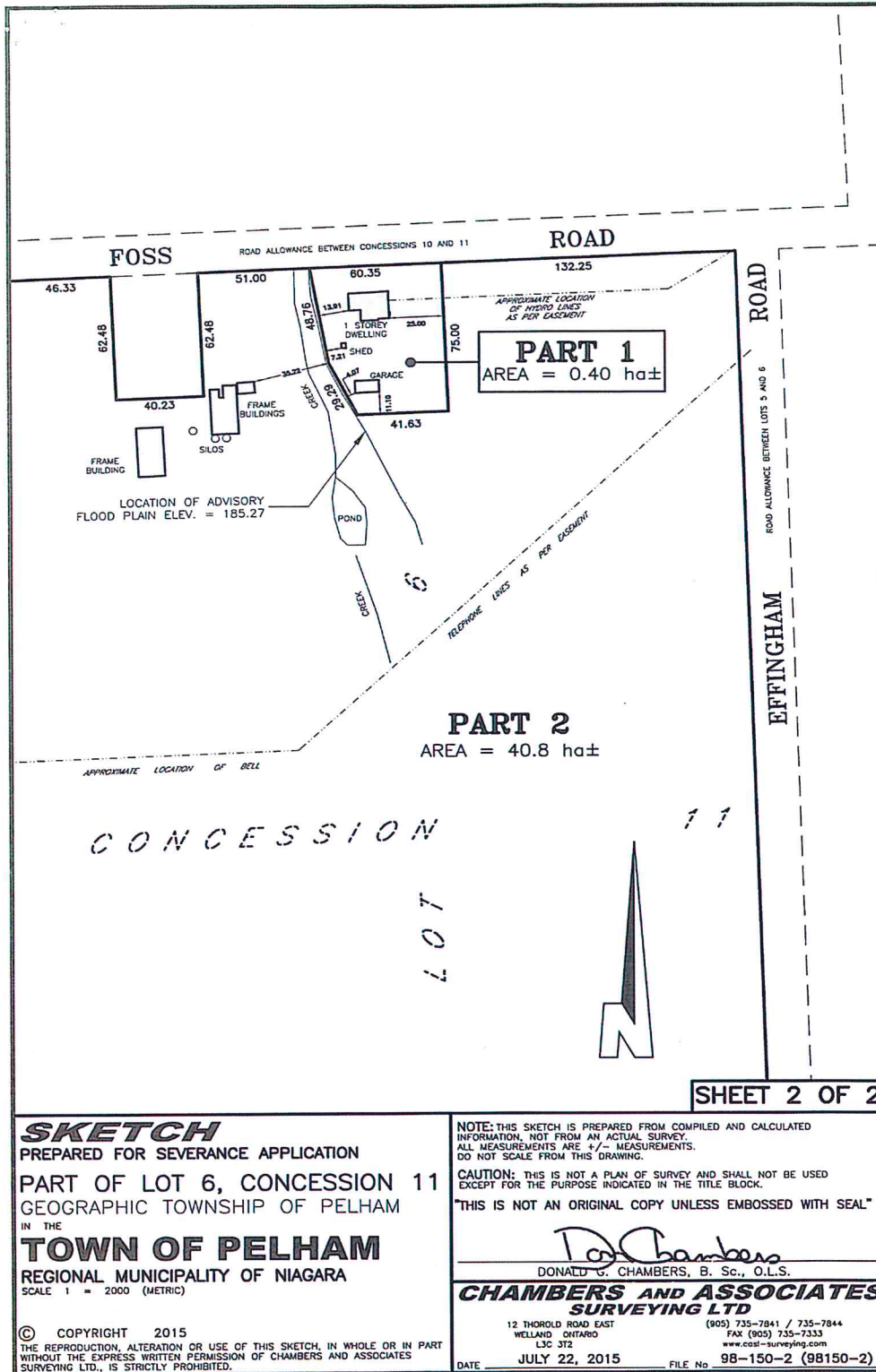
Appendix 1: Submitted Site Drawings




From the Department of



Community Planning & Development


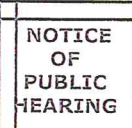



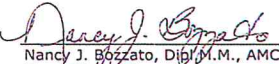



SKETCH
 PREPARED FOR SEVERANCE APPLICATION
 PART OF LOT 6, CONCESSION 11
 GEOGRAPHIC TOWNSHIP OF PELHAM
 IN THE
TOWN OF PELHAM
 REGIONAL MUNICIPALITY OF NIAGARA
 SCALE 1 = 2000 (METRIC)
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 INFORMATION, NOT FROM AN ACTUAL SURVEY.
 ALL MEASUREMENTS ARE +/- MEASUREMENTS.
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 DONALD G. CHAMBERS, B. Sc., O.L.S.
CHAMBERS AND ASSOCIATES
SURVEYING LTD
 12 THOROLD ROAD EAST (905) 735-7841 / 735-7844
 WELLAND ONTARIO FAX (905) 735-7333
 L3C 3T2 www.cas-surveying.com
 DATE JULY 22, 2015 FILE No 98-150-2 (98150-2)




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:	
	WHAT: FILE B7/2015P WHO: WAYNE S. LEIBAU, TRUSTEE Part Lot 6, Concession 11, 322 Foss Road, Pelham
	WHEN: WEDNESDAY, SEPTEMBER 9, 2015 at 4:00 p.m.
	WHERE: 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.
LOCATION OF THE LANDS AND PURPOSE OF THIS APPLICATION: The subject parcel, shown as Part 1 on the attached sketch, has 60.35 metres frontage on the south side of Foss Road, lying 135.25 metres west of Effingham Road, being Part of Lot 6, Concession 11, former Township of Pelham, now Town of Pelham. Application is made for consent to convey 0.40 hectares of land with a dwelling known municipally as 322 Foss Road, as the disposal of a surplus farm dwelling. 40.8 hectares of land (Part 2) is to be retained for continued agricultural use. The remnant parcel will be zoned to preclude residential development as a condition of consent in accordance with Provincial Policy. For agencies and Committee members, please refer to the attached information submitted by the applicant.	
 Information	WHAT IS THIS? 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	YOUR INPUT IS ENCOURAGED! WE ARE LISTENING! The Committee would appreciate receiving your written comments regarding this application by AUGUST 27, 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. The applicant or the authorized agent of the applicant MUST 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!	TOWN OF PELHAM COMMITTEE OF ADJUSTMENT 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: NJBozzato@pelham.ca Dated this 31 st day of July, 2015  Nancy J. Bozzato, Dip. M.M., AMCT Town Clerk / Secretary-Treasurer
 Legal Notice	IMPORTANT INFORMATION! 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: Niagara Peninsula Conservation Authority (NPCA) Comments



**NIAGARA PENINSULA
CONSERVATION
AUTHORITY**

August 21, 2015

250 Thorold Road West, 3rd Floor, Welland, Ontario L3C 3W2
Telephone 905.788.3135 | Facsimile 905.788.1121 | www.npca.ca

File No. MPR 2.11

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

Attn: Nancy Bozzato

Subject: B7/2015
322 Foss Road

The Conservation Authority has reviewed the above noted consent application and offers the following comments and recommendations for your hearing.

This consent application has been made to convey 0.40 hectares of land with a dwelling known as 322 Foss Road, as the disposal of a surplus farm dwelling. 40.8 hectares of land is to be retained for continued agricultural use and will be re-zoned to preclude residential development.

NPCA Regulations:

NPCA mapping shows a tributary to Coyle Creek traversing the western side of the subject property. As such, development of these lands will be subject to the Authority's Regulation of Development Interference with Wetlands and Alterations to Shoreline and Watercourses (O. Reg. 155/06). In accordance with our policies, new development and site alterations are not permitted within a watercourse or regulated flooding hazard.

The NPCA currently does not have regulated floodplain mapping for this section of Coyle Creek, however, this area has been mapped as an Advisory Floodplain (elevation of 185.27m). The submitted severance sketch indicates that Part 1 will be located outside of the Advisory Floodplain.

This section of the creek is also noted as a Type 2 Important Fish Habitat by the Ministry of Natural Resources. Typically, all new development and site alterations must be located a minimum of 15m from the top of bank of this watercourse unless further studies/justifications for a reduction of this buffer are completed by a qualified professional (to the satisfaction of the NPCA).

As there is no new structural development or site alterations proposed at this time, and the lot (Part 1) is sufficiently sized to accommodate future development outside of the 15m buffer, NPCA staff have no concerns with the creation of Part 1.

Region of Niagara's Natural Heritage Comments:

In addition to the MNR classification, the Region's Core Natural Heritage Mapping has identified this section of the watercourse as being an Important Fish Habitat.

Regional Policy 7.B.1.29 of the Region's Official Plan allows for a new residential lot to be located within the adjacent lands of a core feature without the requirement of an Environmental Impact Study (EIS) provided it is demonstrated that certain mitigation measures can avoid negative impacts to the feature or its ecological functions.

2

After several conversations with Regional Staff, it is staff's opinion that this proposal will not have any further negative impact on the adjacent Type 2 watercourse as there is existing development within the required buffer, and Part 1 will be large enough to accommodate future residential development outside of the 15m buffer.

Conclusion:

In light of the above, this office offers no objections to the approval of this application.

I trust the above will be of assistance to you. Please do not hesitate to call should you have any further questions in this matter.

Yours truly,



Sarah Mastroianni
Watershed Planner (ext. 249)

Cc: Mr. Richard Wilson, Senior Development Planner, Niagara Region

Appendix 4: Niagara Region Planning and Development Services Comments



Planning and Development Services

2201 St. David's Road W. PO Box 1042, Thorold, ON L2V 4T7
 Telephone: 905-685-4225 Toll-free: 1-800-263-7215 Fax: 905-641-5208
 www.niagararegion.ca

August 28, 2015

File: D.06.06.CS-15-052

VIA EMAIL ONLY

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

Dear Ms. Bozzato:

Re: Regional and Provincial Review Comments
 Consent Application B7/2015P
 Proposed Disposal of a Surplus Farm Dwelling
 Owner: Wayne Liebau (Trustee)
 322 Foss Road (South Side) - West of Effingham Road
 Town of Pelham

Regional Development Services staff has reviewed the information circulated for this consent application. The proposal is to convey 0.4 hectares (1 acre) of land (Part 1) containing an existing single-detached dwelling known as 322 Foss Road and accessory structures for rural residential use. A parcel 40.8 hectares (100.82 acres) in area (Part 2) containing farm structures is to be retained for continued agricultural use. The application is filed as the disposal of a surplus farm dwelling. Further to my discussion with Town Planning staff yesterday, the following Provincial and Regional comments are provided to assist the Committee in considering the application scheduled for a hearing on September 9, 2015.

Preconsultation meetings for the proposal were held on November 12, 2012 and May 1, 2014 with the owner and staff from the Town, Niagara Peninsula Conservation Authority (NPCA) and Region. There have been several follow-up communications among the applicant, Regional staff and the NPCA on environmental and septic requirements in relation to lot configuration.

Provincial and Regional Policies

The Provincial Policy Statement (PPS) designates the subject land as within a "prime agricultural area". Such lands shall be protected for long-term use for agriculture. The permitted uses in prime agricultural areas under the PPS are agriculture, agriculture-related and on-farm diversified uses. The subject property is outside of the Urban Area Boundary for the Town of Pelham according to the Regional Official Plan. The land is designated Good General Agricultural Area on the Region's Agricultural Land Base Map with agriculture being the predominant use.

In such agricultural areas, Provincial and Regional policies restrict lot creation. Severances may be permitted for the disposal of a residence surplus to a farming operation as a result of a farm consolidation (defined as the acquisition of additional farm parcels to be operated as one farm operation). For surplus farm dwelling applications, planning policies require that the construction of a new residential dwelling is prohibited on the vacant farmland parcel. As a condition of severance, Regional policy indicates that the applicant must have the farm parcel rezoned to preclude residential use on the land in perpetuity. The Regional Official Plan also

From the Department of



**Community Planning
& Development**

requires all proposed residential lots created through consent in agricultural areas to meet additional conditions. These conditions include a maximum lot area of 0.4 hectares (1 acre) unless more area is needed to support a well and private waste disposal system, sufficient frontage and safe access to an existing public road and that the proposed lot be located to minimize the impact on the remaining farm operation.

Planning Review

Surplus Farm Dwelling

The application indicates that the farmer owns approximately 40 hectares (100 acres) of land in cash crop production. Based on the preconsultation meetings and submitted information, it is understood that the northeast portion of the overall property (including Part 1 containing the 322 Foss Road dwelling) was acquired by the farmer some time ago and merged in title with the abutting property to the south and west. The site has operated through the years as a consolidated farm parcel. The farmer's principal residence is located at 340 Foss Road and therefore the dwelling on Part 1 is surplus.

In order to satisfy Provincial and Regional requirements, the existing zoning on the retained farm parcel (Part 2) must be changed to the Agricultural Purposes Only (APO) zone to prohibit any future new dwelling construction.

Private Sewage System Requirements

Development Services staff inspected the existing private sewage disposal system for the dwelling on Part 1. The Region has no record on file for this sewage system. There were no apparent defects with the system at the time of inspection. The proposed lot boundaries will wholly contain the existing septic system and provide suitable useable land area (including 100% spare area) for any future private sewage system upgrades. Staff notes that a preliminary sewage design was also submitted by the applicant for review.

Natural Heritage

The Region's Core Natural Heritage (CNH) mapping designates a watercourse on the property (abutting the west side of Part 1) as CNH Fish Habitat. Regional Environmental policies indicate that where development (defined to include lot creation) is proposed in or adjacent to such core natural heritage features, new lot lines shall not extend into the environmental feature or the buffer zone identified through an Environmental Impact Study (EIS). The requirement for an EIS may be waived for a new residential lot if acceptable mitigation measures will avoid negative impacts. There is no new development proposed through the surplus farm dwelling application and the severance line for Part 1 is located east of the watercourse to contain this environmental feature on Part 2. In accordance with the Memorandum of Understanding and the protocol between the Region and the Niagara Peninsula Conservation Authority, the NPCA is responsible for the review and comment on all planning applications for impacts on the natural environment. Please refer to NPCA comments.

Conclusion

Regional Development Services staff has no objection to Consent Application B7/2015P from a Provincial or Regional perspective, subject to the comments of the Niagara Peninsula Conservation Authority and the satisfaction of any local requirements, and conditional on the owner obtaining final approval of an amending zoning by-law to change the zoning on Part 2 to Agricultural Purposes Only (APO) to preclude the construction of a dwelling in perpetuity.

From the Department of



**Community Planning
& Development**

3

If you have any questions or wish to discuss these comments, please contact me at extension 3391 or Pat Busnello (Manager, Development Planning) at extension 3379.

Please send a copy of the staff report from the Town and notice of the Committee's decision on this application.

Yours truly,



Richard Wilson, MCIP, RPP
Senior Development Planner

- c. Andrew Gameiro - Town of Pelham
- Sarah Mastroianni - Niagara Peninsula Conservation Authority

L:\Wilson-Rick\PELHAM\Consent\2015\Foss Road (322) B-7-15 Liebau\Comments



Appendix 5: Department of Public Works Comments



Memorandum
Public Works Department - Engineering

To: Nancy J. Bozzato, Dipl.M.M., AMCT
From: Xenia Pasiecznik, Engineering Technologist
c.c.: Andrea Clemencio, Director of Public Works
Date: September 1, 2015
File #: B7/2015P
Subject: Consent to Convey
322 Foss Road

The following submitted drawings have been considered for the purpose of this application:

- Site Plan, July 22, 2015

Public Works has no objections on the above application.

Sincerely,

Xenia Pasiecznik,
Engineering Technologist



20 Pelham Town Square P.O. Box 400 · Fonthill, ON L0S 1E0 p: 905.892.2607 f: 905.892.5055
pelham.ca



Appendix 6: Building Department Comments



File: B7/2015P
Address: 322 Foss Road, Pelham
Agent/Owner: Wayne Leibau & Trustee

August 27, 2015

Nancy Bozzato
Town Clerk/Secretary-Treasurer

The Building Department offers the following comments,

- No comments at this time.

Belinda Phillips
Building Intake/Plans Examiner
Community Planning & Development



Appendix 7: Hydro One Comments

Nancy Bozzato

From: Vitumbiko.Mhango@HydroOne.com
Sent: Tuesday, August 11, 2015 9:46 AM
To: Nancy Bozzato
Subject: Town of Pelham (322 Foss Road) Consent to Sever Circulation No. B7/2015P

Consent to Sever Circulation No. B7/2015P

We have reviewed the documents concerning the above noted Application for Consent and have no comments or concerns at this time.

Our preliminary review considers issues affecting Hydro One's 'High Voltage Facilities and Corridor Lands' only.

For proposals affecting 'Low Voltage Distribution Facilities' please consult your local area Distribution Supplier.
(Where Hydro One is the Distribution Supplier the Owner/Applicant should contact the closest Hydro One office).

If you have any questions please call me at the number below.

Thank you.

Dennis De Rango
Specialized Services Team Lead
905-946-6237

Please note that Hydro One accepts planning circulations by email at landuseplanning@Hydroone.com

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Vibrant · Creative · Caring

File: B7/2015P

August 27, 2015

Address: 322 Foss Road, Pelham

Agent/Owner: Wayne Leibau & Trustee

Nancy Bozzato

Town Clerk/Secretary-Treasurer

The Building Department offers the following comments,

- No comments at this time.

Belinda Phillips

Building Intake/Plans Examiner

Community Planning & Development

August 28, 2015

File: D.06.06.CS-15-052

VIA EMAIL ONLY

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

Dear Ms. Bozzato:

**Re: Regional and Provincial Review Comments
Consent Application B7/2015P
Proposed Disposal of a Surplus Farm Dwelling
Owner: Wayne Liebau (Trustee)
322 Foss Road (South Side) - West of Effingham Road
Town of Pelham**

Regional Development Services staff has reviewed the information circulated for this consent application. The proposal is to convey 0.4 hectares (1 acre) of land (Part 1) containing an existing single-detached dwelling known as 322 Foss Road and accessory structures for rural residential use. A parcel 40.8 hectares (100.82 acres) in area (Part 2) containing farm structures is to be retained for continued agricultural use. The application is filed as the disposal of a surplus farm dwelling. Further to my discussion with Town Planning staff yesterday, the following Provincial and Regional comments are provided to assist the Committee in considering the application scheduled for a hearing on September 9, 2015.

Preconsultation meetings for the proposal were held on November 12, 2012 and May 1, 2014 with the owner and staff from the Town, Niagara Peninsula Conservation Authority (NPCA) and Region. There have been several follow-up communications among the applicant, Regional staff and the NPCA on environmental and septic requirements in relation to lot configuration.

Provincial and Regional Policies

The Provincial Policy Statement (PPS) designates the subject land as within a "prime agricultural area". Such lands shall be protected for long-term use for agriculture. The permitted uses in prime agricultural areas under the PPS are agriculture, agriculture-related and on-farm diversified uses. The subject property is outside of the Urban Area Boundary for the Town of Pelham according to the Regional Official Plan. The land is designated Good General Agricultural Area on the Region's Agricultural Land Base Map with agriculture being the predominant use.

In such agricultural areas, Provincial and Regional policies restrict lot creation. Severances may be permitted for the disposal of a residence surplus to a farming operation as a result of a farm consolidation (defined as the acquisition of additional farm parcels to be operated as one farm operation). For surplus farm dwelling applications, planning policies require that the construction of a new residential dwelling is prohibited on the vacant farmland parcel. As a condition of severance, Regional policy indicates that the applicant must have the farm parcel rezoned to preclude residential use on the land in perpetuity. The Regional Official Plan also

requires all proposed residential lots created through consent in agricultural areas to meet additional conditions. These conditions include a maximum lot area of 0.4 hectares (1 acre) unless more area is needed to support a well and private waste disposal system, sufficient frontage and safe access to an existing public road and that the proposed lot be located to minimize the impact on the remaining farm operation.

Planning Review

Surplus Farm Dwelling

The application indicates that the farmer owns approximately 40 hectares (100 acres) of land in cash crop production. Based on the preconsultation meetings and submitted information, it is understood that the northeast portion of the overall property (including Part 1 containing the 322 Foss Road dwelling) was acquired by the farmer some time ago and merged in title with the abutting property to the south and west. The site has operated through the years as a consolidated farm parcel. The farmer's principal residence is located at 340 Foss Road and therefore the dwelling on Part 1 is surplus.

In order to satisfy Provincial and Regional requirements, the existing zoning on the retained farm parcel (Part 2) must be changed to the Agricultural Purposes Only (APO) zone to prohibit any future new dwelling construction.

Private Sewage System Requirements

Development Services staff inspected the existing private sewage disposal system for the dwelling on Part 1. The Region has no record on file for this sewage system. There were no apparent defects with the system at the time of inspection. The proposed lot boundaries will wholly contain the existing septic system and provide suitable useable land area (including 100% spare area) for any future private sewage system upgrades. Staff notes that a preliminary sewage design was also submitted by the applicant for review.

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Conclusion

Regional Development Services staff has no objection to Consent Application B7/2015P from a Provincial or Regional perspective, subject to the comments of the Niagara Peninsula Conservation Authority and the satisfaction of any local requirements, and conditional on the owner obtaining final approval of an amending zoning by-law to change the zoning on Part 2 to Agricultural Purposes Only (APO) to preclude the construction of a dwelling in perpetuity.

If you have any questions or wish to discuss these comments, please contact me at extension 3391 or Pat Busnello (Manager, Development Planning) at extension 3379.

Please send a copy of the staff report from the Town and notice of the Committee's decision on this application.

Yours truly,



Richard Wilson, MCIP, RPP
Senior Development Planner

- c. Andrew Gameiro - Town of Pelham
- Sarah Mastroianni - Niagara Peninsula Conservation Authority

L:\Wilson-Rick\PELHAM\Consent\2015\Foss Road (322) B-7-15 Liebau\Comments

Appendix 4 for 6.2.: File B7 2015P Conservation



250 Thorold Road West, 3rd Floor, Welland, Ontario L3C 3W2
Telephone 905.788.3135 | Facsimile 905.788.1121 | www.npca.ca

File No. MPR 2.11

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

Attn: Nancy Bozzato

Subject: B7/2015
322 Foss Road

The Conservation Authority has reviewed the above noted consent application and offers the following comments and recommendations for your hearing.

This consent application has been made to convey 0.40 hectares of land with a dwelling known as 322 Foss Road, as the disposal of a surplus farm dwelling. 40.8 hectares of land is to be retained for continued agricultural use and will be re-zoned to preclude residential development.

NPCA Regulations:

NPCA mapping shows a tributary to Coyle Creek traversing the western side of the subject property. As such, development of these lands will be subject to the Authority's Regulation of Development, Interference with Wetlands and Alterations to Shoreline and Watercourses (O. Reg. 155/06). In accordance with our policies, new development and site alterations are not permitted within a watercourse or regulated flooding hazard.

The NPCA currently does not have regulated floodplain mapping for this section of Coyle Creek, however, this area has been mapped as an Advisory Floodplain (elevation of 185.27m). The submitted severance sketch indicates that Part 1 will be located outside of the Advisory Floodplain.

This section of the creek is also noted as a Type 2 Important Fish Habitat by the Ministry of Natural Resources. Typically, all new development and site alterations must be located a minimum of 15m from the top of bank of this watercourse unless further studies/justifications for a reduction of this buffer are completed by a qualified professional (to the satisfaction of the NPCA).

As there is no new structural development or site alterations proposed at this time, and the lot (Part 1) is sufficiently sized to accommodate future development outside of the 15m buffer, NPCA staff have no concerns with the creation of Part 1.

Region of Niagara's Natural Heritage Comments:

In addition to the MNR classification, the Region's Core Natural Heritage Mapping has identified this section of the watercourse as being an Important Fish Habitat.

Regional Policy 7.B.1.29 of the Region's Official Plan allows for a new residential lot to be located within the adjacent lands of a core feature without the requirement of an Environmental Impact Study (EIS) provided it is demonstrated that certain mitigation measures can avoid negative impacts to the feature or its ecological functions.

Appendix 4 for 6.2.: File B7 2015P Conservation

2

After several conversations with Regional Staff, it is staff's opinion that this proposal will not have any further negative impact on the adjacent Type 2 watercourse as there is existing development within the required buffer, and Part 1 will be large enough to accommodate future residential development outside of the 15m buffer.

Conclusion:

In light of the above, this office offers no objections to the approval of this application.

I trust the above will be of assistance to you. Please do not hesitate to call should you have any further questions in this matter.

Yours truly,



Sarah Mastroianni
Watershed Planner (ext. 249)

Cc: Mr. Richard Wilson, Senior Development Planner, Niagara Region

Nancy Bozzato

From: Vitumbiko.Mhango@HydroOne.com
Sent: Tuesday, August 11, 2015 9:46 AM
To: Nancy Bozzato
Subject: Town of Pelham (322 Foss Road) Consent to Sever Circulation No. B7/2015P

Consent to Sever Circulation No. B7/2015P

We have reviewed the documents concerning the above noted Application for Consent and have no comments or concerns at this time.

Our preliminary review considers issues affecting Hydro One's 'High Voltage Facilities and Corridor Lands' only.

For proposals affecting 'Low Voltage Distribution Facilities' please consult your local area Distribution Supplier.
(Where Hydro One is the Distribution Supplier the Owner/Applicant should contact the closest Hydro One office).

If you have any questions please call me at the number below.

Thank you.

Dennis De Rango
Specialized Services Team Lead
905-946-6237

Please note that Hydro One accepts planning circulations by email at landuseplanning@Hydroone.com

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September 3, 2015

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

Dear Mrs. Bozzato:

**Re: Consent (Severance) Application B8/2015P (Fonthill Gardens Inc.)
151 Port Robinson Road, Pelham, ON
Part of Lot 166, Former Thorold Township
Roll No. 273203002004400**

Disclaimer: Planning staff have prepared this report in absence of comments from the Niagara Peninsula Conservation Authority (NPCA). Comments from this agency will be provided under a separate cover. This report shall be considered in conjunction with the comments from the NPCA.

The subject application is for consent to convey 73 square metres (785.76 square feet) of vacant land, to be merged with the abutting parcel to the east as shown as Part 3 on the attached drawing, being Part 1, Plan 59R-12792, for future residential use. 3.598 hectares (8.89 acres) of land (Part 1) is to be retained for continued use of the dwelling known municipally as 151 Port Robinson Road.

The subject parcel, shown as Part 2 on the attached sketch, is an interior parcel of land lying 162.75 metres (533.95 feet) north of Port Robinson Road, west of Rice Road, being Part of Lot 166, former Thorold Township, now in the Town of Pelham.

Applicable Planning Policies

Provincial Policy Statement (PPS), 2014

The subject parcel is located in the 'Settlement Area' according to the Provincial Policy Statement (PPS), 2014.

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

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



The Greenbelt Plan (2005)

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

Regional Official Plan (Consolidated, August 2014)

The Regional Official Plan, 2014, designates the subject parcel as 'Urban Area Boundary – Built-up Area' and 'Designated Greenfield Area'.

Policy 4.G.7.2 states that 'Urban Areas' will be the focus of the Region's long term growth and 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.

Policy 4.C.5.1 states that 'Designated Greenfield Areas' will be planned as compact, complete communities by accommodating a range of land uses including residential, commercial, institutional recreational, employment and other uses. Policy 4.C.5.1 also states that 'Designated Greenfield Areas' shall make a significant contribution to the growth of respective urban areas as a complete community.

Town Pelham Official Plan, 2014

The Town's Official Plan, 2014, identifies the subject parcel as part of the East Fonthill Secondary Plan. According to the Official Plan, the subject parcel is designated 'EF- Low Density Residential' and 'EF – Medium Density Residential'.

The permitted uses in the 'EF – Low Density Residential' designation include: single detached and semi-detached dwelling units; accessory apartments/secondary suites; accessory buildings and structures related to the primary residential dwelling unit; home occupations; places of worship; day nurseries; convenience retail and service commercial uses; parks, parkettes and open space linkages; and, public and public and private utilities. In addition to the permitted uses identified above, townhouses may be permitted and may constitute up to a maximum of 15 percent (15%) of the total number of dwelling units within any individual draft plan of subdivision.

The permitted uses in the 'EF- Medium Density Residential' designation include: all forms of townhouse units; small scale apartment buildings; accessory apartments/secondary suites; live-work units; housing for seniors and/or special needs housing; accessory buildings and structures related to the primary residential dwelling unit; home occupations; places of worship; day nurseries; convenience retail and service commercial uses; parks, parkettes and open space linkages; and, public uses and public and private utilities. In addition to the permitted uses identified above, single and semi-detached dwellings may be permitted but may not constitute more than 15 percent (15%) of the total number of dwelling units within any individual draft plan of subdivisions

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 development 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 number 1136 (1897), as amended

The subject parcel is zoned 'Agricultural' (A) according to Zoning By-law No. 1136 (1987), as amended. The 'Agricultural' zone permits the use of the land for: agricultural uses including greenhouses; seasonal or permanent farm help houses on farms larger than 10 hectares; one single detached dwelling on one lot; home occupations; kennels; animal hospitals; uses, buildings and structures accessory to the foregoing permitted uses; and, forestry and conservation uses.

Planning Staff Comments

According to the application and attached survey sketch (refer to Appendix 1), Part 1 contains an existing two (2) storey dwelling and a pond, while Parts 2 and 3 consist of vacant land. Parts 2 and 3 on the attached survey sketch are to be utilized for future residential development and are subject to Draft Plan of Subdivision and Zoning By-law Amendment applications, while Part 1 is to be retained for continued residential use of the dwelling known as 151 Port Robinson Road.

The subject parcel is surrounded by single residential lots and vacant lands which are slated for future residential development as part of the East Fonthill Secondary Plan.

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 Port Robinson Road. In addition, the site does not pose a traffic hazard as there are no visibility concerns due to topography.

Planning staff are 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. Servicing for Parts 2 and 3 on the attached survey sketch will be addressed through the concurrent application for Draft Plan of Subdivision and a Zoning By-law Amendment.

The Town's Department of Public Works will address drainage and servicing requirements for the subject application. The approval of the application shall be subject to any conditions imposed by the Department of Public Works.

The subject application will not affect the development 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 subject parcel. The NPCA will provide comments regarding the environmental features on the subject property. The approval of the application shall be subject to any conditions imposed by the NPCA.

Any future development on the severed parcel will be subject to an application for Draft Plan of Subdivision and a Zoning By-law Amendment. As such, future development must comply with the requirements of the Town's Official Plan and Zoning By-law, Ontario Building Code and all applicable law.

On July 31st, 2015, a notice was circulated to agencies directly affected by the proposed application including internal Town departments (i.e. Public Works and Building) and all assessed property owners within 120 metres of the property's boundaries (refer to Appendix 2).

To date, the following comments have been received:

- The Department of Public Works comments, dated September 1, 2015, offer no objections to the application (refer to Appendix 4).
- The Building Department comments, dated August 27, 2015, offer no objections to the application.

No comments were received from the public.

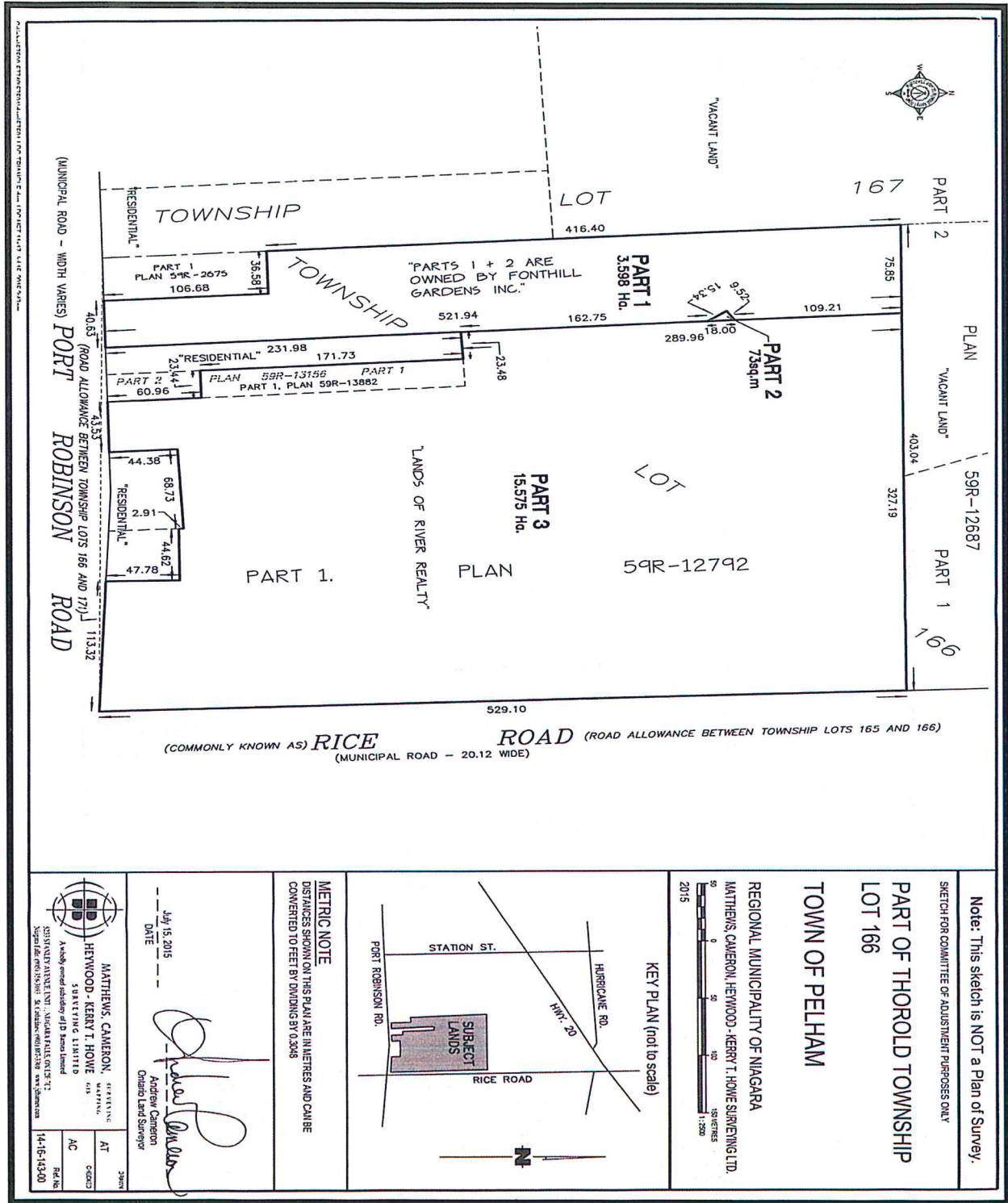
Planning Staff is of the opinion that the application for consent to sever is consistent with Provincial policies and Regional Official Plan, and complies with the Town's Official Plan and Zoning By-law. The authorization of the consent is not expected to generate negative impacts on adjacent uses and on the community as a whole. Consequently, Planning Staff recommend that Application File B8/2015P be approved.

Submitted by,




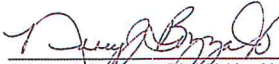



Andrew Gameiro
Planner

Appendix 1: Submitted Site Drawing



Appendix 2: Public Notice

	
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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; width: fit-content; margin: auto;"> NOTICE OF PUBLIC HEARING </div>	WHAT: FILE B8/2015P FONTHILL GARDENS (2015) INC.
	WHO: Part Lot 166, former Thorold Township, now Town of Pelham
	WHEN: Wednesday, September 9, 2015 at 4:00 p.m.
	WHERE: 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.
LOCATION OF THE LANDS AND PURPOSE OF THIS APPLICATION: The subject parcel, shown as Part 2 on the attached sketch, is an interior parcel of land lying 162.75 metres north of Port Robinson Road, west of Rice Road, being Part of Lot 166, former Thorold Township, now in the Town of Pelham. Application is made for consent to convey 73 square metres of vacant land, to be merged with the abutting parcel to the east shown as Part 3 on the attached drawing, being Part 1, Plan 59R-12792, for future residential use. 3.598 hectares of land (Part 1) is to be retained for continued use of the dwelling known as 151 Port Robinson Road.	
Information 	WHAT IS THIS? 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.
<div style="border: 1px solid black; border-radius: 15px; padding: 5px; width: fit-content; margin: auto;"> HAVE YOUR SAY </div>	YOUR INPUT IS ENCOURAGED! WE ARE LISTENING! <i>The Committee would appreciate receiving your written comments regarding this application by AUGUST 27, 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 MUST 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! TOWN OF PELHAM COMMITTEE OF ADJUSTMENT 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: NJBozzato@pelham.ca Dated this 31 st day of July, 2015 <div style="text-align: right;">  Nancy J. Bozzato, Dip. M.M., AMCT Town Clerk / Secretary-Treasurer </div>
Legal Notice 	IMPORTANT INFORMATION! 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: Department of Public Works Comments



Memorandum
Public Works Department - Engineering

To: Nancy J. Bozzato, Dipl.M.M., AMCT
From: Xenia Pasiecznik, Engineering Technologist
c.c.: Andrea Clemencio, Director of Public Works
Date: September 1, 2015
File #: B8/2015P
Subject: Consent to Convey
151 Port Robinson Road, Fonthill
Part Lot 166, Fonthill Gardens

The following submitted drawings have been considered for the purpose of this application:

- Site Plan, July 15, 2015

Public Works has no objections on the above application.

Sincerely,

Xenia Pasiecznik,
Engineering Technologist



20 Pelham Town Square P.O. Box 400 · Fonthill, ON L0S 1E0 p: 905.892.2607 f: 905.892.5055
pelham.ca



Appendix 4: Building Department Comments



File: B8/2015P
Address: 151 Port Robinson Road, Pelham
Agent: Upper Canada Consultants
Owner: Fonthill Gardens(2015)Inc.,

August 27, 2015

Nancy Bozzato
Town Clerk/Secretary-Treasurer

The Building Department offers the following comments,

- No comments at this time.

Belinda Phillips
Building Intake/Plans Examiner
Community Planning & Development





Vibrant · Creative · Caring

File: B8/2015P

August 27, 2015

Address: 151 Port Robinson Road, Pelham

Agent: Upper Canada Consultants

Owner: Fonthill Gardens(2015)Inc.,

Nancy Bozzato

Town Clerk/Secretary-Treasurer

The Building Department offers the following comments,

- No comments at this time.

Belinda Phillips

Building Intake/Plans Examiner

Community Planning & Development