

COMMITTEE OF ADJUSTMENT

Department of Planning and Building Services
3540 Schmon Parkway, P.O. Box 1044
Thorold, ON L2V 4A7
905-227-6613

June 14, 2024

TO: Chairperson and Members of the Committee of Adjustment

SUBJECT: Minor Variance Application D13-02-2024
1201 Egerter Road, Thorold ON
PT TWP LOT 214 BF PT RD RP 59R3365 PT PART 2 AND PT PART 3
2731 000 030 11100

PROPOSAL: An application has been submitted for a minor variance under Section 45(2) of the Planning Act, R.S.O. 1990, c.P.13, as amended, to permit the expansion of the legal non-conforming use established at 1201 Egerter Road, for the purpose of a 1,109 m² building addition to the existing fabricating shop.

RECOMMENDATION: That Minor Variance Application D13-14-2024 to permit the enlargement to an existing legal non-conforming use **BE APPROVED**.

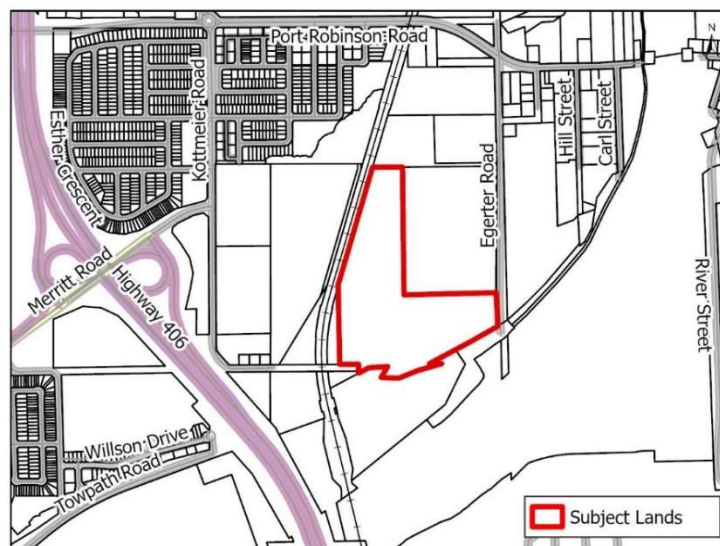


Figure 1: Location Map

Site Description

The subject lands are located at the southern limit of Egerter Road within the Port Robinson West Secondary Planning Area. The lands are currently occupied by a fabricating shop with a total floor area of 7,149 m², in addition to five (5) existing storage buildings totaling 2,719 m², and is proposed to be further developed with a building addition to the fabricating shop of 1,109 m², as shown on the proposed Site Plan (**Appendix 1**).

Background

The property is currently utilized as a fabricating shop by E.S. Fox Limited, which has been in continuous use by the company for approximately 50 years. The lands are currently zoned FD (Future Development) within the City of Thorold Comprehensive Zoning By-law 60-2019.

The current industrial use of the property is not a permitted use within the FD zone according to the City's 60-2019 Zoning By-law. However, prior to implementation of Zoning Bylaw 60-2019, the property was zoned LI-1 (Light Industrial Zone), with a site specific provision to permit a fabricating shop under the 2140(97) Comprehensive Zoning By-law. Per the City's 60-2019 Zoning By-law, only legally existing buildings and structures in the FD zone may be repaired or renovated provided that the repairs or renovations do not further increase the extent or degree of non-conformity. As the lands, building or structure, on the day the Zoning Bylaw 60-2019 was passed, were lawfully used for a purpose prohibited by the by-law, the existing industrial use of the land is legal non-conforming. As such, an application under Section 45(2) of the Planning Act, R.S.O. 1990, C.P.13, as amended, for a minor variance to permit the enlargement of the legal non-conforming use has been made.

It is noted that in January 2024, a minor variance application (D13-02-2024) to permit the enlargement of the existing legal non-conforming use was granted, to facilitate a proposed 814 m² addition to the existing shop. Through refinements in the design, the applicant has identified the need for further expansion to the fabricating shop of 1,109 m², as requested in this application.

MINOR VARIANCE PLANNING ANALYSIS:

This application has been submitted pursuant to Section 45(2) of the *Planning Act*, that provides 'Other Powers' to the Committee of Adjustment including:

- (a) where any lands, building or structure, on the day the by-law was passed, was lawfully used for a purpose prohibited by the by-law, may permit,
 - (i) The enlargement or extension of the building or structure, if the use that was made of the building or structure on the day the by-law was passed, or a use permitted under subclause (ii) continued until the date of the application to the committee, but no permission may be given to enlarge or extend the building or structure beyond the limits of the land owned and used in connection therewith on the day the by-law was passed, or
 - (ii) The use of such land, building or structure for a purpose that, in the opinion of the committee, is similar to the purpose for which it was used on the day the by-law was passed, if the use for a purpose prohibited by the by-law or another

use for a purpose previously permitted by the committee continued until the date of the application to the committee; or

- (b) where the uses of land, buildings or structures permitted in the by-law are defined in general terms, may permit the use of any land, building or structure for any purpose that, in the opinion of the committee, conforms with the uses permitted in the by-law.'

Further to the above noted provisions of the *Planning Act*, there is further case law (Fraser v. Rideau Lakes (Township), 2020 Carswell Ontario) which outlines that the test to be applied by the committee is NOT the typical four (4) tests for a minor variance (i.e. is the general intent of the Official Plan and Zoning By-law maintained, are the variances appropriate for the development of the land and are the variances minor). Instead, the committee must determine:

- 1) Whether the proposed expansion is appropriate; and
- 2) Whether it will result in undue adverse impacts on the surrounding neighbourhood.

Finally, under the provisions of the City of Thorold Official Plan (CTOP) Section E2 contemplates non-conforming uses. Specifically Section E2.2 outlines that:

'If a property occupied by a non-conforming use cannot be acquired or the building(s) relocated, the Committee of Adjustment may, without an amendment to this Plan, allow similar or more compatible extensions or changes to a non-conforming use. Prior to such approval, the Committee shall consider the following:

- a) The size of the extension in relation to the existing operation;
- b) Whether the proposed extension is compatible with the character of the surrounding area;
- c) The characteristics of the existing use in relation to noise, vibration, fumes, dust, smoke, odours, lighting and traffic generation and the degree to which any of these factors may be increased or decreased by the extension; and
- d) The possibilities of reducing these nuisances through buffering, building setbacks, landscaping, Site Plan Control and other means to improve the existing situation, as well as minimize the problems from extension.'

Is the proposed expansion appropriate?

Where the existing shop and proposed addition is located, the property is designated as "Port Robinson West Industrial" within Schedule A-6 - Port Robinson West Land Use Plan and "Employment/Commercial Areas" within Schedule A-5 - Port Robinson West Neighbourhood Structure Plan, of the Port Robinson West Secondary Plan.

Per Section B1.9.5.2 of the City's Official Plan, the Employment/Commercial Area identified on Schedule A-5 – Neighbourhood Structure Plan are expected to generate a minimum of 1,850 people based on a minimum gross density of 50 persons and jobs combined per gross hectare. Per Section B1.9.6.4 of the City's Official Plan, the Employment Area identified on Schedule A-6 – Land Use Plan represents existing and/or planned employment facilities such as the areas east of Highway 406 and the areas north of Merritt Road west of Highway 406. The Port Robinson West Secondary Plan promotes the further development of this Employment Area.

In accordance with the policy noted above, the continued use and proposed expansion of the industrial/employment lands are supported by the Port Robinson West Secondary Plan policies. The policy recognizes existing industrial uses in the area, and encourages intensification for further industrial/employment uses. Therefore the proposed addition to the ground floor industrial space meets the general intent of the Official Plan.

As such, staff is of the opinion that the requested variance is appropriate for the development of the land.

Will the application result in undue adverse impacts on the surrounding neighbourhood?

Property owners have a right to reasonable flexibility, evolution, and expansion of legally nonconforming/noncomplying uses, land, building and structures, provided the evolution or expansion does not cause undue adverse impacts on the surrounding neighbourhood.

Given the long standing industrial use of the property, the relative size and scale of the proposed expansion, and the continued use of the property for similar purposes for over 50 years with no known conflict or negative impacts, it is planning staff's opinion that the proposed expansion to the existing use is not anticipated to cause undue adverse impacts on the surrounding neighbourhood.

Official Plan Review

Per Section E2.2 of the City's Official Plan, if a property occupied by a non-conforming use cannot be acquired or the building(s) relocated, the Committee of Adjustment may, without an amendment to this Plan, allow similar or more compatible extensions or changes to a non-conforming use. Prior to such approval, the Committee shall consider the following:

- a) The size of the extension in relation to the existing operation;
- b) Whether the proposed extension is compatible with the character of the surrounding area;
- c) The characteristics of the existing use in relation to noise, vibration, fumes, dust, smoke, odours, lighting and traffic generation and the degree to which any of these factors may be increased or decreased by the extension; and,
- d) The possibilities of reducing these nuisances through buffering, building setbacks, landscaping, Site Plan Control and other means to improve the existing situation, as well as minimize the problems from extension.

Once again, given the long standing industrial use of the property with no known conflict or negative impacts, the relative size and scale of the proposed expansion, and the continued use of the property for similar purposes for over 50 years, it is Planning staff's opinion that the proposed expansion to the existing use is not anticipated to cause undue adverse impacts on the surrounding neighbourhood.

According to the City's Official Plan, any redevelopment of existing industrial uses which would involve an expansion of the floor area of more than 25% may be subject to Site Plan Control. Combined with the expansion approved through minor variance file D13-02-2024, the facility is proposed to be expanded by a total of 1,923 m² or 19 % of the existing 9,868 m² facility. As such, the proposed expansion is not subject to Site Plan Control.

COMMENTS:

Agency & Department Comments

The application was circulated to internal departments and external agencies for comments, which are summarized below. A copy of the agency and department comments received are provided in **Appendix 2**.

The following Departments/Agencies provided comments noting no concerns with the proposal: City Engineering Department, City of Thorold Heritage Advisory Committee (LACAC), Hydro One, Cogeco, GIO Rail, City Tax Department, and TransCanada Pipelines Limited.

The following Departments/Agencies did not provide comments on the proposal: Ministry of Transportation Ontario, Niagara Region (previous comments apply), Bell Canada, Canadian National Railway (CN), Niagara Escarpment Commission, Thorold Fire and Emergency Services, Ontario Power Generation, Trillium Railway, Canada Post, District School Board of Niagara, and Niagara Catholic District School Board.

City Building Department

- Building permit required prior to construction of the proposed additions.
- Permit required for the expansion of on-site sewage system.

Niagara Peninsula Conservation Authority (NPCA)

- NPCA staff noted that the subject property is impacted by possible unevaluated wetland, the buffer of regulated PSW wetlands, as well as unmapped floodplains.
- NPCA staff noted that the site plan identifies that the proposed expansion is on already disturbed lands. Technical staff have had a review and note that this floodplain is apart of the Towpath Drain and that it is expected that the development is outside of the floodplain.

- As such, the NPCA has no concerns and will not require a review fee.

Niagara Region

- Region staff noted that the comments provided during the Minor Variance Application D13-02-2024 process still apply. A summary of those comments is provided below.
- Region staff noted that the proposal is consistent with the PPS and conforms to Provincial and Regional policies, subject to the conditions below.
 1. That Best Management Practices, including Erosion & Sediment Control (“ESC”) fencing are implemented during construction through a development agreement between the Owner and City of Thorold, or other suitable mechanism, to the satisfaction of the Niagara Region.
 2. That the Owner be advised of the following advisory clause:
“Should deeply buried archaeological remains/resources be found during construction activities, all activities impacting archaeological resources must cease immediately, and the proponent must notify the Archaeology Programs Unit of the Ministry of Culture, Tourism and Sport and contact a licensed archaeologist to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists.”

In the event that human remains are encountered during construction, all activities must cease immediately and the Niagara Regional Police as well as the Cemeteries Regulation Unit of the Ministry of Public and Business Services Delivery (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, the Ministry of Culture, Tourism and Sport should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the Ontario Heritage Act.”

- Region staff noted that based on the documents provided it appears that the overall flow rate for the property is greater than 10,000 L/Day, and therefore Private Sewage System review is outside of the Niagara Region’s jurisdiction and is instead subject to approval from the Ministry of Environment Conservation and Parks.

Public Comments

The application was also circulated in accordance with the requirements of the Planning Act to property owners within 60 metres of the subject lands. At the time of writing of this report, no public comments have been received.

CONCLUSION:

As provided herein, the subject application has demonstrated that the expansion of the legally non-conforming fabrication shop on the subject property is not anticipated to have an adverse effect and impact on surrounding properties, and is otherwise consistent with the Official Plan, PPS and Growth Plan. It is therefore recommended that application D13-17-2024 as presented be approved, without conditions.

Prepared by:

ORIGINAL SIGNED

Connor MacIsaac
Planner, Development Services

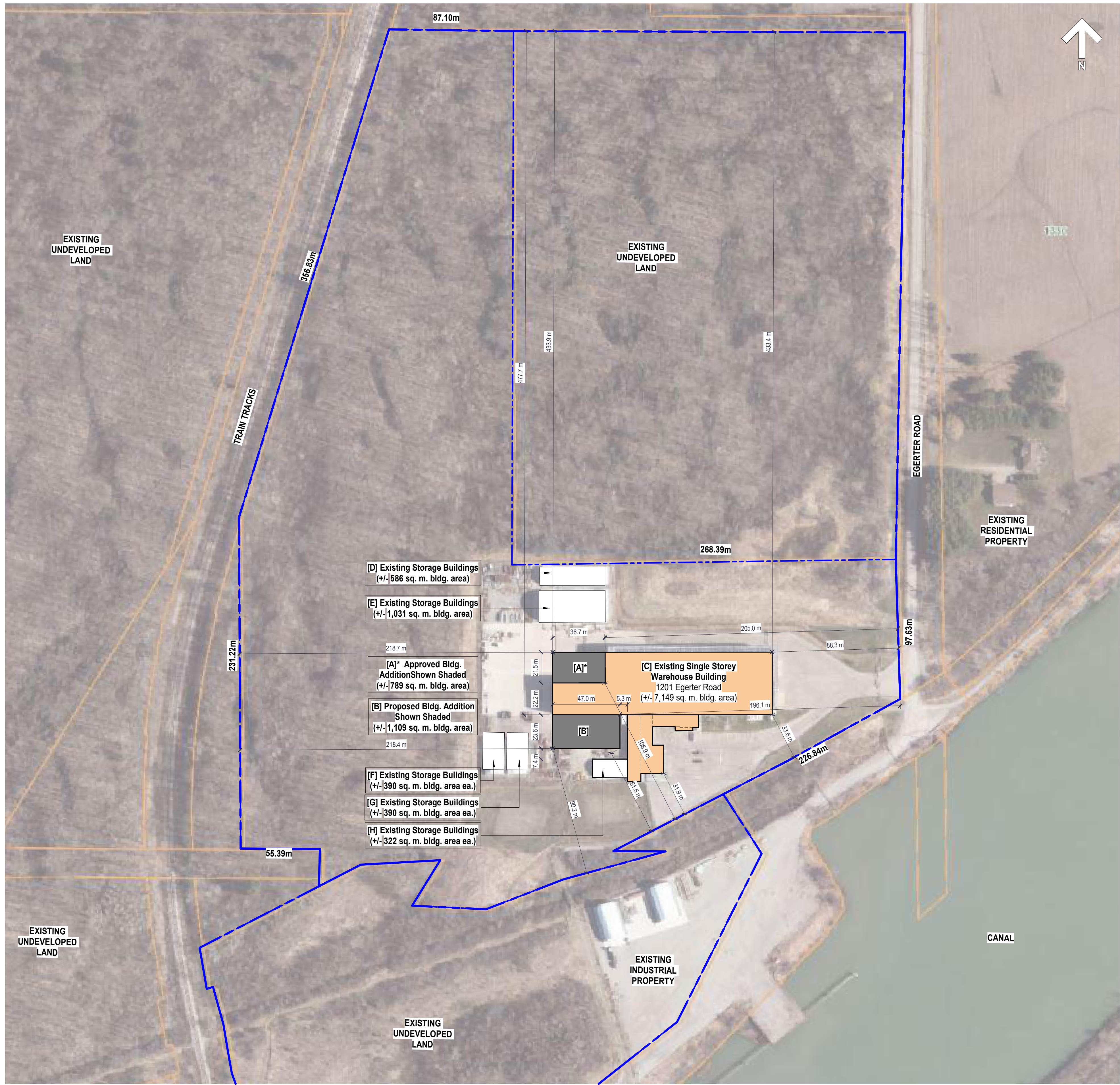
Respectfully Submitted By:

ORIGINAL SIGNED

Marc Davidson
Senior Development Planner,
Development Services



Appendix 1: Site Plan



Site Plan (SPA)
Scale: 1 : 1500

Site Stats:

Address: 1201 Egerter rd. Roll No. 273100003011100
Ref. Plan: 59R3365 Part Of Lot 214

Description	Areas	Percentages
Lot Area	143,620 sq. m.	100%
Existing Bldg. Area	7,149 m ²	4.98%
Proposed Bldg. Addition (A)*	789 m ²	0.54%
Proposed Bldg. Addition (B)	1,109 m ² (9,047 m ²)	0.77% (3.76%)
Existing Area Of All Storage Bldg.	2,719 m ²	6.29%
Total Areas:	11,776 m ²	8.20%
Building Height	15.76 m±	

*approved through file D13-02-2024

Autodesk Docs:/24-024 - ES Fox (Egerter Rd Storage Warehouse)/24-024 - ES Fox - Egerter Rd Storage Warehouse.rvt

A April 10, 2010 Issued For Borrower Locations
 B April 26, 2024 Issued For Minor Variance
 C May 17, 2024 Re-issued For Minor Variance



4687 Queen Street Suite 2,
Niagara Falls, ON, L2E 2L9
T | 905-357-4441
F | 905-357-9203
W | www.raimondosarchitects.com
E | mail@raimondosarchitects.com

CLIENT NAME
E.S. Fox Limited

PROJECT NAME
Egerter Road Storage Warehouse Renovation

PROJECT ADDRESS
1201 Egerter Rd, Port Robinson, ON

SHEET NAME
Site Plan - SPA

DRAWN BY: MBK
DATE: 2024-05-17 10:51:29 AM
SCALE: 1 : 1500
PROJECT NO.: 24-024
CHECKED: ER

DRAWINGS ARE NOT VALID FOR CONSTRUCTION UNTIL SEALED AND SIGNED BY THE ARCHITECT.
DO NOT SCALE DRAWINGS. REPORT ALL DISCREPANCIES TO THE ARCHITECT BEFORE PROCEEDING. ALL DRAWINGS AND DESIGNS REMAIN THE PROPERTY OF THE ARCHITECT, AND ARE PROTECTED UNDER COPYRIGHT.
THESE DESIGN DOCUMENTS ARE PREPARED SOLELY FOR THE USE BY THE PARTY WITH WHOM THE DESIGN PROFESSIONAL HAS ENTERED INTO A CONTRACT AND THERE ARE NO REPRESENTATIONS OF ANY KIND MADE BY THE DESIGN PROFESSIONAL TO ANY PARTY WITH WHOM THE DESIGN PROFESSIONAL HAS NOT ENTERED INTO A CONTRACT.

SHEET #
A0-120
REV. #



Appendix 2: Agency & Department Comments



CITY OF THOROLD BUILDING COMMENTS

Angela Nesbitt

From: Jason Simpson
Sent: Monday, May 27, 2024 9:52 AM
To: Angela Nesbitt
Subject: RE: Request for comments - Committee of Adjustment - JUNE 2024 - Due by Friday, June 7th

Angi

Please find comments from the Building Division below.

D13-14-2024 Minor Variance 1706 Allanport Road

- Building permit required for the construction of the proposed second house on the property.
- Building permit required from the Region of Niagara for the required septic system construction. (Note that a permit will be required from the Ministry of Environment, Conservation and Parks if the daily design flow on the property exceeds 10000 L/day)
- Window and wall serving the proposed entry will require fire protection due to proximity to property line.
- Development charges will need to be paid prior to issuance of a building permit.

D13-15-2024 Minor Variance 1040 Thorold Stone Road

- No concerns from the Building Division

D10-10-2024 Consent 197 St. Davids Road

- No concerns from the Building Division

D13-16-2024 Minor Variance 45 – 53 Harmony Way Block 29

- No concerns from the Building Division

D13-17-2024 Minor Variance 1201 Egerter Road

- Building permit required prior to construction of the proposed additions
- Permit required for the expansion of on-site sewage system

D10-11-2024 Consent 3 – 5 Hagar Street

- No concerns from the Building Division

D13-18-2024 Minor Variance 3 Hagar Street Part 2

- No concerns from the Building Division

D13-19-2024 Minor Variance 5 Hagar Street Part 1

- No concerns from the Building Division



Jason Simpson

Director of Development Services
Development Services

City of Thorold

905-227-6613 x244

P.O. Box 1044, 3540 Schmon Parkway, Thorold, ON., L2V 4A7

www.thorold.ca

From: Angela Nesbitt <Angela.Nesbitt@thorold.ca>

Sent: May 21, 2024 4:26 PM

To: Abu Rashed <Abu.Rashed@thorold.ca>; FPO <FPO@thorold.ca>; Frankie Sica <Frankie.Sica@thorold.ca>; Jason Simpson <Jason.Simpson@thorold.ca>; Jenny Rodriguez <Jenny.Rodriguez@thorold.ca>; Justin Letourneau <Justin.Letourneau@thorold.ca>; Lucy Sacco <Lucy.Sacco@thorold.ca>; Sean Dunsmore <Sean.Dunsmore@thorold.ca>; Ugo Obiako <Ugo.Obiako@thorold.ca>

Subject: Request for comments - Committee of Adjustment - JUNE 2024 - Due by Friday, June 7th

Good afternoon,

The June 2024 Committee of Adjustment Notices of Hearing and application materials can be found here - <https://files.thorold.ca/s/7arw76W8i46BndH> for the consent and minor variance applications listed below:

D13-14-2024	Minor Variance	1706 Allanport Road
D13-15-2024	Minor Variance	1040 Thorold Stone Road
D10-10-2024	Consent	197 St. Davids Road
D13-16-2024	Minor Variance	45 – 53 Harmony Way Block 29
D13-17-2024	Minor Variance	1201 Egerter Road
D10-11-2024	Consent	3 – 5 Hagar Street
D13-18-2024	Minor Variance	3 Hagar Street Part 2
D13-19-2024	Minor Variance	5 Hagar Street Part 1

Please review and provide comments to the undersigned **on or before 4:00 p.m. on Friday, June 7th, 2024.**

Thanking you in advance.

Respectfully,



Angela Nesbitt ACST-A

Planning Clerk
Development Services

City of Thorold

905-227-6613 x259

P.O. Box 1044, 3540 Schmon Parkway, Thorold, ON., L2V 4A7

www.thorold.ca



NIAGARA PENINSULA CONSERVATION AUTHORITY COMMENTS

Ashley D'Amico

From: Meghan Birbeck <mbirbeck@npca.ca>
Sent: May 30, 2024 10:25 AM
To: Angela Nesbitt
Subject: NPCA response regarding Thorold's June COA Hearing
Attachments: NPCA Response Regarding Thorold's June COA Hearing - 1706 Allanport Rd

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning Angela,

Please find the NPCA's full comments to the City of Thorold's June COA below:

- D13-14-2024 Minor Variance 1706 Allanport Road
 - o Comments provided May 23, 2024 (see attached email)

- D13-15-2024 Minor Variance 1040 Thorold Stone Road
 - o The provided materials indicate that a minor variance reduction is being proposed for the front yard setback and landscape buffer to construct phase two of the commercial development for two new structures.
 - o The provided plans highlight that the new structures being proposed are located in the southeast corner of the property.
 - o The subject property is impacted by possible unevaluated wetlands as well as an unmapped floodplain.
 - o The possible unevaluated wetlands are located along the west and north lot line.
 - o Technical staff have had a review of the proposed structures and note that they do not have any flooding concerns.
 - o As such, the NPCA has no concerns with the variances and will not require a review fee.

- D10-10-2024 Consent 197 St. Davids Road
 - o There are no NPCA regulated features on the subject property.
 - o As such, the NPCA has no comment and will not require a review fee.

- D13-16-2024 Minor Variance 45 – 53 Harmony Way Block 29
 - o The provided materials indicate that a minor variance increase is being proposed to the lot coverage.
 - o During the subdivision process a watercourse a regulated watercourse was realigned away from the lots in question.
 - o As such, the NPCA has no comment and will not require a review fee.

- D13-17-2024 Minor Variance 1201 Egerter Road
 - o The provided materials indicate that a minor variance is being proposed to expand a legal nonconforming use.
 - o The subject property is impacted by possible unevaluated wetland, the buffer of regulated PSW wetlands, as well as unmapped floodplains.
 - o The site plan identifies that the proposed expansion is on already disturbed lands.
 - o Technical staff have had a review and note that this floodplain is apart of the Towpath Drain and that it is expected that the development is outside of the floodplain.
 - o As such, the NPCA has no concerns and will not require a review fee.

- D10-11-2024 Consent 3 – 5 Hagar Street
- D13-18-2024 Minor Variance 3 Hagar Street Part 2

- D13-19-2024 Minor Variance 5 Hagar Street Part 1
 - o There are no NPCA regulated features on the subject property.
 - o As such, the NPCA has no comment and will not require a review fee.

Best,
Meghan



Meghan Birbeck (MS)
Watershed Planner

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

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

From: Angela Nesbitt <Angela.Nesbitt@thorold.ca>

Sent: Tuesday, May 21, 2024 4:26 PM

To: Bell <circulations@wsp.com>; Bell ROW <ROWCentre@bell.ca>; Canada Post <Andrew.Carrigan@Canadapost.ca>; CN <proximity@cn.ca>; Cogeco - Mike Embleton <mike.embleton@cogeco.com>; DSBN - Michelle McPhee (Michelle.McPhee@dsbn.org) <Michelle.McPhee@dsbn.org>; Enbridge <MunicipalPlanning@enbridge.com>; GIO Rail <aaron.white@giorail.com>; Heritage Thorold LACAC - Anne O'Hare <S. 14 MFIPPA >; Hydro One - Brettney Brunton <brettney.brunton@hydroone.com>; Hydro One - Land Use Planning <landuseplanning@hydroone.com>; Hydro One - Quinn Briscall <Quinn.Briscall@HydroOne.com>; Hydro One - Zone 2 scheduling <zone2scheduling@hydroone.com>; MNCFN - Adam LaForme <Adam.LaForme@mncfn.ca>; MTO - Kirandeep Kaur <KIRANDEEP.KAUR2@ontario.ca>; MTO - Usama Ali <Usama.Ali@ontario.ca>; MTO - Usman Akhtar <Usman.Akhtar@ontario.ca>; NCDSB <Planning@ncdsb.com>; NEC - Cheryl Tansony <Cheryl.Tansony@ontario.ca>; NEC - Kendra Adair <Kendra.Adair@ontario.ca>; Meghan Birbeck <mbirbeck@npca.ca>; Sarah Mastroianni <smastroianni@npca.ca>; Taran Lennard <tlennard@npca.ca>; OPG <executivevp.lawanddevelopment@opg.com>; Region - Alex Boekestyn <Alex.Boekestyn@niagararegion.ca>; Region - Development Planning <devtplanningapplications@niagararegion.ca>; St. Catharines <sritchie@stcatharines.ca>; TransCanada PipeLines (MHBC on behalf of) <TCEnergy@mhbcplan.com>; Trillium Railway <aaron.white@trilliumrailway.com>

Subject: Request for comments - City of Thorold Committee of Adjustment June 2024 - Due by Friday, June 7th

Good afternoon,

The June 2024 City of Thorold Committee of Adjustment Notices of Hearing and application materials can be found here - <https://files.thorold.ca/s/7arw76W8i46BndH> for the consent and minor variance applications listed below:

D13-14-2024	Minor Variance	1706 Allanport Road
D13-15-2024	Minor Variance	1040 Thorold Stone Road
D10-10-2024	Consent	197 St. Davids Road
D13-16-2024	Minor Variance	45 – 53 Harmony Way Block 29
D13-17-2024	Minor Variance	1201 Egerter Road
D10-11-2024	Consent	3 – 5 Hagar Street
D13-18-2024	Minor Variance	3 Hagar Street Part 2
D13-19-2024	Minor Variance	5 Hagar Street Part 1

Please review and provide comments to the undersigned **on or before 4:00 p.m. on Friday, June 7th, 2024.**

Thanking you in advance.

Respectfully,



Angela Nesbitt ACST-A

Planning Clerk
Development Services

City of Thorold

905-227-6613 x259

P.O. Box 1044, 3540 Schmon Parkway, Thorold, ON., L2V 4A7

www.thorold.ca

The information contained in this communication, including any attachment(s), may be confidential, is intended only for the use of the recipient(s) named above. If the reader of this message is not the intended recipient, you are hereby notified that any disclosure of this communication, or any of its contents, is prohibited. If you have received this communication in error, please notify the sender and permanently delete the original and any copy from your computer system. Thank-you. Niagara Peninsula Conservation Authority.

IMPORTANT NOTICE

Effective April 15, 2024 the Niagara Peninsula Conservation Authority head office has moved to 3350 Merrittville Highway, Thorold Ontario L2V 4Y6



NIAGARA REGION COMMENTS

Connor Maclsaac

From: Ashley D'Amico
Sent: Friday, June 7, 2024 10:29 AM
To: Connor Maclsaac
Subject: FW: Regional Comments - June Committee of Adjustment
Attachments: Regional Comments - 1706 Allanport Road - 2024-06-07.pdf; Regional Comments - 1201 Egerter Road - 2024-01-18.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

FYI, Regional comments received and saved to the files

Thanks,
Ashley



Ashley D'Amico

Development Coordinator
Development Services

City of Thorold

905-227-6613 x316

P.O. Box 1044, 3540 Schmon Parkway, Thorold, ON., L2V 4A7

www.thorold.ca

From: Boekestyn, Alex <Alex.Boekestyn@niagararegion.ca>
Sent: June 7, 2024 10:20 AM
To: Ashley D'Amico <Ashley.DAmico@thorold.ca>; Angela Nesbitt <Angela.Nesbitt@thorold.ca>
Cc: Development Planning Applications <devtplanningapplications@niagararegion.ca>; Busnello, Pat <pat.busnello@niagararegion.ca>; Haluka, Devon <Devon.Haluka@niagararegion.ca>; Scholten, Yves <Yves.Scholten@niagararegion.ca>
Subject: Regional Comments - June Committee of Adjustment

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning Ashley,

Please see the attached comments for 1706 Allanport Road.

Staff has reviewed the Minor Variance Application for 1201 Egerter Road and note the comments provided in January for City file D13-28-2024 will continue to apply and are attached.

Staff offer no comments for any of the other Committee of Adjustment items.

Should you have any questions please do not hesitate to reach out.

Kind regards,



Alex Bokestyn, MSc

DEVELOPMENT PLANNER

Niagara Region, 1815 Sir Isaac Brock Way, Thorold, ON, L2V 4T7

P : (905) 980 - 6000 ext. 3264

W : www.niagararegion.ca

E : Alex.Bokestyn@niagararegion.ca



My workday may look different from your workday. Please do not feel obligated to respond outside of your normal working hours.

The Regional Municipality of Niagara Confidentiality Notice The information contained in this communication including any attachments may be confidential, 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.

Growth Strategy and Economic Development

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7
(905) 980-6000 Toll-free:1-800-263-7215

Via Email

January 18, 2024

Region File: D.17.09.MV-24-00010
Angela Nesbitt
Secretary Treasurer
City of Thorold
3540 Schmon Parkway
Thorold, ON L2V 4A7

Dear Ms. Nesbitt:

**Re: Regional and Provincial Comments
Minor Variance Application
City File: D13-02-2024
Applicant: Raimondo + Associates Architects Inc.
Owner: ES Fox Limited
1201 Egerter Road
City of Thorold**

Regional Growth Strategy and Economic Development staff has reviewed the Minor Variance Application for the property municipally known as 1201 Egerter Road in the City of Thorold. The Applicant is seeking a Minor Variance for the proposed construction of an 814 square metre addition to an existing industrial manufacturing facility. A variance is being requested to permit an expansion to the existing use, as it is Regional staff's understanding that the existing Future Development ("FD") zone on the subject lands only permits legally existing uses, buildings and structures.

The following comments are provided to assist the City of Thorold with their review of the proposed Minor Variance Application.

Provincial and Regional Policies

The subject lands are within a "Settlement Area" in accordance with the *Provincial Policy Statement, 2020* ("PPS") and designated as "Designated Greenfield Area" in *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 Consolidation* ("Growth Plan"). The subject lands are within the Urban Area and are delineated as "Designated Greenfield Area" in the *Niagara Official Plan* ("NOP"). The NOP, PPS, and Growth Plan together direct development to take place in urban areas to support intensified development where appropriate servicing and infrastructure exist. The Growth Plan and NOP contain policies which encourage the development of Designated

Greenfield Areas into complete communities that achieve a minimum density target of 50 residents and jobs combined per hectare.

Regional staff note that the City's Port Robinson West Secondary Plan provides detailed policies for the comprehensive development of this area. The NOP encourages local municipalities to use secondary plans to establish a blueprint for good long term community development, and to ensure a commitment to growth management and phasing of development. Accordingly, the Town should be satisfied that the proposed development aligns with the general intent and long-term vision outlined in the secondary plan.

Natural Environment System

The subject property is impacted by the Region's Natural Environment System ("NES"), consisting of Significant Woodland and the Niagara Street Cataract Road Woodlot Provincially Significant Wetland ("PSW"). The NOP requires the completion of an Environmental Impact Study ("EIS") when development or site alteration is proposed on lands adjacent to natural heritage features. The EIS must demonstrate that there will be no negative impact on the features or their ecological function. Within settlement areas, mandatory buffers from Significant Woodland and Other Wetlands are required. The widths of the mandatory buffers are determined through the EIS.

However, the NOP also states that EIS requirements can be waived if the proposed development is minor and is not anticipated to have a negative impact on the NES. The Minor Variance is required to facilitate the construction of an addition which, according to the plans submitted, does not encroach further to the natural heritage features than the existing development. Staff are satisfied that the proposed development will not have a negative impact on the NES, provided that Best Management Practices ("BMP") including Erosion & Sediment Control ("ESC") fencing are implemented during construction. Implementation of these measures will have to be addressed as part of a development agreement between the Owner and City of Thorold, or other suitable mechanism, to the satisfaction of Regional staff. A condition to address this requirement is included in the conclusion to this letter.

Private Servicing

Based on further correspondence with the Agent, a report was submitted to Private Sewage System ("PSS") staff prepared in 2009 by AMEC (TG91015) for the septic system installed, specifying that the overall flow rate for the property is 11,700L/Day. Therefore, PSS review is outside of the Niagara Region's jurisdiction and is instead subject to approval from the Ministry of Environment, Conservation and Parks. Staff advise that this application be forwarded to the Ministry of Environment, Conservation and Parks for their review and comments.

Archaeological Potential

The PPS and NOP provide direction for the conservation of significant cultural heritage and archaeological resources. Specifically, Section 2.6.2 of the PPS states that development and site alteration is not permitted on lands containing archaeological resources or areas of archaeological potential, unless significant archaeological resources have been conserved.

The proposed addition is located outside of the Niagara Region's mapped Area of Archaeological Potential as outlined in Schedule K of the NOP. However, recognizing that no archaeological survey, regardless of its intensity, can entirely negate the possibility of deeply buried archaeological materials, staff request that the applicant be informed of the following warning clause relating to deeply buried archaeological materials that may be encountered during grading and construction activities:

“Should deeply buried archaeological remains/resources be found during construction activities, all activities impacting archaeological resources must cease immediately, and the proponent must notify the Archaeology Programs Unit of the Ministry of Culture, Tourism and Sport and contact a licensed archaeologist to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists.

In the event that human remains are encountered during construction, all activities must cease immediately and the Niagara Regional Police as well as the Cemeteries Regulation Unit of the Ministry of Public and Business Services Delivery (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, the Ministry of Culture, Tourism and Sport should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the Ontario Heritage Act.”

In this regard, it is the applicant's risk that construction activities would need to cease, and an archaeological assessment would be required, if any deeply buried archaeological resources are encountered during excavation work.

Should the City require the applicant to enter into a development agreement for the proposed development, Regional staff request that the above-noted clause be included in this agreement.

Conclusion

In conclusion, Regional Growth Strategy and Economic Development staff does not object to the proposed Minor Variance Application, in principle, as the proposal is consistent with the PPS and conforms to Provincial and Regional policies, subject to the conditions below.

January 18, 2024

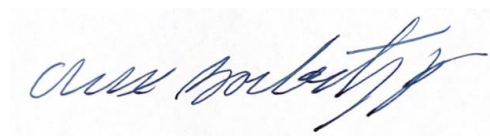
1. That Best Management Practices, including Erosion & Sediment Control (“ESC”) fencing, are implemented during construction through a development agreement between the Owner and City of Thorold, or other suitable mechanism, to the satisfaction of the Niagara Region.
2. That the Application provides the Regional Minor Variance Review fee of \$465.
3. That the Owner be advised of the following advisory clause:

“Should deeply buried archaeological remains/resources be found during construction activities, all activities impacting archaeological resources must cease immediately, and the proponent must notify the Archaeology Programs Unit of the Ministry of Culture, Tourism and Sport and contact a licensed archaeologist to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists.

In the event that human remains are encountered during construction, all activities must cease immediately and the Niagara Regional Police as well as the Cemeteries Regulation Unit of the Ministry of Public and Business Services Delivery (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, the Ministry of Culture, Tourism and Sport should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the Ontario Heritage Act.”

Should you have any questions related to the above comments, please contact the undersigned at Alex.Boekestyn@niagararegion.ca, or Pat Busnello, Manager of Development Planning at Pat.Busnello@niagararegion.ca.

Best regards,



Alex Boekestyn, M.Sc.
Development Planner, Niagara Region

cc: Pat Busnello, MCIP, RPP, Manager of Development Planning, Niagara Region
Yves Scholten, Planning Ecologist, Niagara Region
Devon Haluka, Private Sewage System Inspector, Niagara Region