

S C H E D U L E

" A "

TO

BY-LAW NO. 1116 (1987)

ALL AND SINGULAR that certain parcel or tract of land and premises, situate, lying and being in the Town of Pelham, in the Regional Municipality of Niagara, formerly in the Township of Pelham, in the County of Welland, and being composed of Part of Lot 19 according to Registered Plan No. 16 for the Township of Pelham and being more particularly described as follows:

COMMENCING at the southwest angle of said Lot 19;

THENCE Easterly in and along the south limit of said Lot, 200 feet to an iron stake marking the place of beginning;

THENCE continuing Easterly in and along the south limit of said Lot, 328 feet to an iron stake;

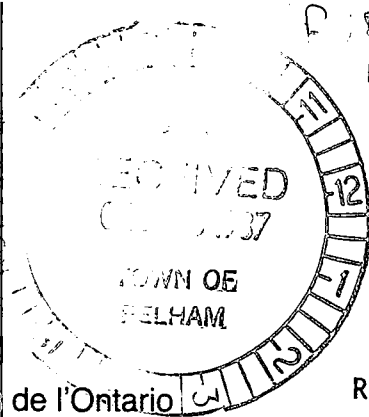
THENCE Westerly parallel to the west limit of said Lot, 165 feet to an iron stake;

THENCE Westerly and parallel to the south limit of said Lot, 328 feet to an iron stake;

THENCE Southerly and parallel to the west limit of said Lot, 165 feet to the place of beginning.



Ontario Municipal Board  
Commission des affaires municipales de l'Ontario



BIWIK  
Rezoning  
DB 78  
F 49

R 870265

IN THE MATTER OF Section 34 of The Planning Act, 1983

AND IN THE MATTER OF appeals by Alan and Kathryn Putman and Gilles Overbeeke against Zoning By-law 1116(1987) of the Town of Pelham

**C O U N S E L :**

G.F. Brooks, Q.C.                   : for the Town of Pelham  
R. Reilly                               : for J.J. Rybiak

**DECISION OF THE BOARD** delivered by R.D.M. OWEN

The matters before the Board are appeals by a number of residents from the passing of a Town of Pelham zoning by-law, which by-law would permit the erection of a 10 unit, 3 storey apartment building at 835 Foss Road.

The site is 1.24 acres in size, with a frontage on Foss Road of 344 feet and a depth of 176 feet. There is an existing 3 unit, 1½-storey apartment structure on the west half of the site. This building would remain. The proposed new apartment building would be situated on the eastern half of the site, as shown on the proposed site plan Exhibit 5A, and to be of a design shown on the elevation drawings Exhibit 5B. The present zoning put in place some 15 years ago is site specific to allow the existing apartment building. It was limited to a 3 unit building because of the lack of services at that time.

The subject lands lie in the southwest corner of the Hamlet or Village of Fenwick, designated in the Regional Official Plan as an Urban Area. The local Official Plan, being the Town of Pelham's Official Plan, designates the area surrounding the site as "Special Village Residential". Multiple family residences and apartments are permitted subject to site specific zoning by-law amendments and the meeting of criteria set out in the Plan's policies.

The Board heard from the Planning Consultant for the Town and the Town's Consulting Engineer. The Planner testified that the proposal conformed to the Regional Official Plan and the Town's Official Plan in all particulars. It was a proper use of the lands, even though at the maximum density permitted in the Town's Official Plan. This was still a low density in comparison to the density usually found in urban areas. The site was quite large and the density accordingly low, and no impact would be felt by the surrounding single family residents. It would be on full urban services. This type of use was recently and carefully scrutinized resulting in Official Plan policies being approved in March of 1985, and it was an appropriate use in the Special Village Residential designation. The use met the approved housing statement of the Municipality by providing varied types of housing and represented a wise and efficient use of urban lands. The urban boundaries were established and strictly limited, during the urban boundary designation hearings, at the time of the Regional Official Plan's approval. The site plan and servicing were incorporated into a site plan agreement, approved by Council, and save for the inclusion of a suggested fencing requirement and certain tree planting on the easterly boundary all concerns of impact, shadowing, overlooking, parking and buffering, were adequately met. The Planner's evidence was not shaken in cross-examination or on careful and thorough questioning by the Board.

The Town's Consulting Engineer's representative confirmed that the 6-inch waterline would be installed at the developer's sole cost, and would provide water and fire protection to the site. It would also result in a fire hydrant at the site, an improvement from the existing situation, which would benefit the entire neighbourhood. The sewer connection would be direct to the 8-inch line which now ended to the east of the site, so that the existing 3-inch sewer line service would not be impacted. There would be no interference with the existing services provided to the neighbourhood. The increase in traffic would not compromise the road capacity; the impact would be small and not impose any significant problems. Again, this evidence was neither shaken nor contradicted.

resulting in a full review by all concerned, including the usual avenues of appeal. These usual planning procedures would determine the appropriateness of any new development.

The site is located within an urban area. The agricultural or rural area surrounds the Village. Although the site is close to the boundary between the two, the concerns about complaints by urban residents of agricultural pursuits outside those urban boundaries should not result in a curtailment of those legitimate and permitted agricultural uses. The Planner's evidence that this was an appropriate use of the site in keeping with the recent Official Plan amendments and the Housing Statement was unshaken. The restricted nature of the urban areas requires the wise and efficient use and development of the lands therein. This is necessary to prevent the encroachment upon rural agricultural areas due to bad planning within the urban areas. Those agricultural uses existing within the Village Residential designation may, of course, continue but these are not encouraged. Anyone proposing new or expanded agricultural uses faces the fact that urban uses are the predominant uses and intended as such in areas designated Village Residential.

The Board does have concern for these potential conflicts; but it accepts that in this prime agricultural area of the Province urban uses are not only necessary but a fact of life. However, they have been limited in their area by boundaries which resulted from lengthy and contested Board hearings. The use of lands within these boundaries must be carefully and efficiently developed to prevent the alternative, a slow but inexorable absorption of more prime agricultural land into urban uses.

The Board finds that the objections of the appellants have been satisfactorily answered or addressed, and the appeals from the zoning by-law are dismissed.