

**DATE:** March 31<sup>st</sup>, 2021

**REPORT NO:** COA-006-21

**SUBJECT:** **Recommendation Report**  
Application for Minor Variance by Bill Kerr & Sandra Williams  
File No. A06/2021WL

**CONTACT:** Madyson Etzl, Planner II  
Brian Treble, Director of Planning and Building

**OVERVIEW:**

- A minor Variance application has been submitted by Bill Kerr and Sandra Williams for the property legally known as Concession 5, Part Lot 1, RP30R4828; Part 1, in the former Township of Caistor, now in the Township of West Lincoln, Region of Niagara. The property is municipally known as 1768 Caistor Gainsborough Townline Road.
- This Minor Variance application has been submitted due to a by-law infraction caught at the final building inspection stage of construction. The existing newly constructed garage is located in front of the front wall of the main dwelling by approximately 91.44 centimeters (36 inches)
- The applicant constructed the accessory building to the north of the main dwelling and in the location that it is in to allow access to the property's septic tank for required maintenance and cleaning.
- This application has been reviewed against the four tests of a Minor Variance and can be recommended for approval.

**RECOMMENDATION:**

1. THAT, the application for a Minor Variance made by Bill Kerr and Sandra Williams as outlined in Report COA-006-21, to recognize an accessory building located closer to the front lot line than the main building by approximately 91.44 centimetres (36 inches), BE APPROVED; subject to the following condition
  - a. That the shipping container be removed as a condition of this minor variance taking effect.

**BACKGROUND:**

The subject lands are situated on the west side of Caistor Gainsborough Townline Road, north of Bismark road and south of Concession 4, being legally described as Concession 5, Part Lot 1, RP30R4828; Part 1, in the former Township of Caister, now in the Township of West Lincoln, Regional Municipality of Niagara. The subject property is municipally known as 1768 Caistor Gainsborough Townline Road. (See attachment 1 for a site sketch)

An application for a Minor Variance has been made to recognize the newly constructed 77.2 square metre detached garage that is located closer to the front lot line than the

main building. The applicant previously submitted a building permit application to construct a new accessory building on June 23, 2020 which proposed to demolish the existing 52 square metre accessory building and construct a new 77.3 square metre accessory building.

This application was submitted on June 23<sup>rd</sup> 2020 and it was reviewed for zoning compliance by the planning department, the planning review was completed on June 29<sup>th</sup> 2020. The planning department completed a review and signed off on the garage as the front wall was in line with the front wall of the main dwelling, as shown on the survey. The applicant was issued his building permit on July 9<sup>th</sup> 2020. At the time of final inspection from the Township's Building Inspector it was noted that the accessory garage was located closer to the front lot line than the main building. By-law issued a zoning compliance order which resulted in this minor variance application.

**CURRENT SITUATION:**

Planning Staff have completed an analysis of the proposed Minor Variance application and can provide the following evaluation:

**Does the proposal maintain the general intent and purpose of the Official Plan?  
Yes**

The property is designated as Good General Agriculture under the Township's Official Plan. The Good General Agricultural Zone comprises those lands designated as the second highest level of protection and preservation for agricultural purposes. Residential and accessory residential uses are permitted in the Good General Agricultural designation. The newly constructed 77.3 square metre accessory building is accessory to the existing residence on the property, and would not significantly impact the environment nor negatively impact neighbouring residential properties.

Township Planning Staff are of the opinion that this minor variance meets the general intent and purpose of the Official Plan as the proposed use is permitted and generally fits the character of the surrounding area.

**Does the proposal maintain the general intent and purpose of the Zoning By-law?  
Yes**

The subject land is zoned Agricultural 'A' in the Township's Zoning By-law 2017-70, as amended. The parcel is 0.41 hectares (1 acre) The agricultural zone permits single detached dwellings and their associated accessory buildings. The proposed accessory building is a permitted use under the regulations of the Agricultural Zone.

Under the Townships Zoning By-law accessory buildings shall be no closer to the front lot line than the main building. This ensures that there is a consistent streetscape throughout the Township of West Lincoln and that the main buildings on the lot are the prominent buildings, and the accessory buildings are seen as accessory.

As such, Township staff are of the opinion that this application meets the general intent of the Township Zoning Bylaw.

**Is the proposal desirable for the appropriate development or use of the land? Yes**

The applicant had proposed to replace a 52 square metre accessory building that was constructed prior to 2002. The structure of the building was in very poor condition. The applicants submitted a permit to demolish the previous accessory building and replace it with a newly constructed 77.3 square metre garage. This building is currently being used for storage purposes, which is permitted on an agricultural small holding property.

The septic department had no objections to the application as proposed, as it has met the 5 metre required setback from a building to a septic system. As such, Planning Staff are of the opinion that the requested variance is appropriate development and use of the land.

**Is the proposal minor in nature? Yes**

The subject application is requesting to recognize an existing accessory building that is closer to the front lot line than the main building. This was not originally planned, but is required now due to setbacks from the septic system. The purpose of the Township's Zoning By-law 2017-70 requiring accessory buildings to be located behind the main dwelling is to ensure the main building is the prominent feature of the property and that accessory buildings are seen as accessory. The applicant has previously constructed a 77.3 square metres detached garage/storage building. The proposed accessory structure is approximately 91.44 centimeters (36 inches) closer to the front lot line than the main building. The size of the existing house on the subject property is approximately 1154 square feet (216.93 square metres) (Please see attached site sketch)

The proposed location of the accessory structure is due to the existing septic and the required setbacks from this bed which take up most of the area located directly behind the house and the newly constructed garage. The required setback from the septic bed is 5 metres; the accessory building is also required to be 3 metres away from the existing dwelling. Parking is not permitted on any part of a septic system therefore the accessory building cannot be located towards the back of the property.

Planning staff note that there had previously been a 52 square metre accessory building on the subject property since approximately 2002. The 91.44 centimeter (36 inch) setback is minor in nature, and will not affect neighbouring properties. For the reasons above and as detailed in this report, Staff is of the opinion that this variance is minor in nature.

**FINANCIAL IMPLICATIONS:**

There are no financial implications associated with this application.

**INTER-DEPARTMENTAL COMMENTS:**

Notification was mailed to all applicable agencies and departments on March 12<sup>th</sup> 2021. A yellow sign was also posted on the property a minimum of 10 days before the hearing.

The Township Public Works Department, Septic Inspector and Building Department

have no objections for this application

No other comments were received from agencies for this application at the time of this report.

**PUBLIC COMMENTS:**

Notification was mailed to all neighbouring properties within a 60m radius of the subject lands on March 12<sup>th</sup> 2021. A notice was posted to the Township's website on the same day, and a Yellow sign was posted on the property a minimum of 10 days before the hearing.

No public comments have been received as of March 24<sup>th</sup>, during the preparation of this report.

**CONCLUSION:**

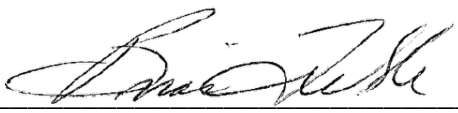
A Minor Variance application has been submitted by Bill Kerr and Sandra Williams for the property municipally known as 1768 Canborough Road. The Minor Variance application was submitted due to a zoning by-law infraction being caught at final building inspection stage. This application is now requesting to recognize the newly constructed 77.3 square metre accessory garage that is located closer to the front lot line than the main building. Planning staff are of the opinion that this application meets all four tests of a minor variance, and as such, can recommend approval of this application; subject to one condition.

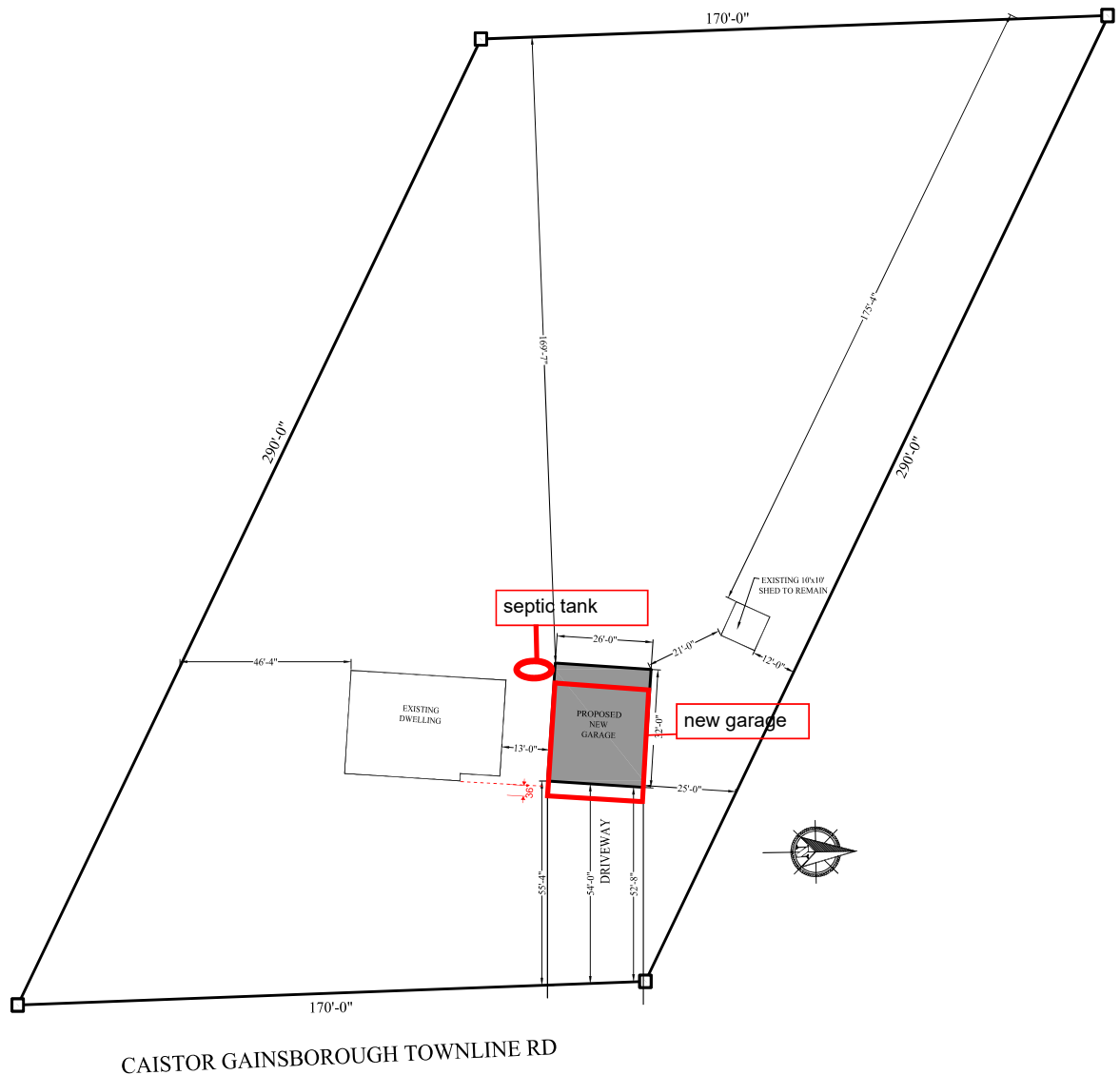
**ATTACHMENTS:**

1. Site Sketch
2. Accessory Building Zoning Provisions
3. Agency Comments

**Prepared by:**

  
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**Madyson Etzl**  
**Planner II**

  
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**Brian Treble, RPP, MCIP**  
**Director of Planning and Building**





SITE STATISTIC

LOT AREA	49,300 sqf	(4,580m <sup>2</sup> )
EXIST. HOUSE	1,154 sqf	(216.93m <sup>2</sup> )
PROPOSED GARAGE	832 sqf	( 77.30m <sup>2</sup> )
EXIST. SHED	100 sqf	(9.29m <sup>2</sup> )

NOTES:  
1. OWNER/CONTRACTOR TO VERIFY AND CHECK ALL DIMENSIONS AND SPECS PRIOR TO AND DURING CONSTRUCTION.  
2. ANY DEVIATIONS, DEFICIENCIES OR DISCREPANCIES FROM THESE DRAWINGS AND SPECS REQUIRES WRITTEN CLARIFICATION AND/OR APPROVAL FROM THE DESIGNER PRIOR TO CONSTRUCTION.

NOTE:  
INFORMATION ON THIS SITE PLAN HAS BEEN OBTAINED FROM OWNER PROVIDED INFO AND MUNICIPAL GIS AND MAY BE APPROXIMATE.

4		 <b>DeFILIPPIS DESIGN</b> 887 DARTON ST. SUITE 201 STONE CREEK, ONTARIO L8E 5L6 (905) 643-2250 FAX (905) 643-1095 email: dphilippisdesign@shaw.ca
3		
2		
1		
REV.		
JOB NO.		SITE PLAN FOR:
CHKD. BY		<b>BILL KERR</b>
DRN. BY		1768 CAISTOR GAINSBOROUGH TOWNLINE RD
DATE: JANUARY, 2020		WEST LINCOLN, ONTARIO
SCALE: AS NOTED		
DWG NO. SP-1		
		<b>SITE PLAN</b>

## PART 3. GENERAL PROVISIONS

### 3.1 ACCESSORY BUILDINGS OR STRUCTURES AND ACCESSORY USES

The following regulations apply to *accessory buildings or structures* and *accessory uses*:

- a) Where this By-law permits a *lot* to be used or a *building or structure* to be *erected* or used for a permitted *use*, that *use* shall include any *accessory building or structure* and any *accessory use*.
- b) An *accessory building or structure* shall not be used for human habitation or an occupation for gain or profit, except if specifically permitted by this By-law.
- c) An *accessory building or structure* and *accessory use* shall be located on the same *lot* as the *principal use* to which it is associated.
- d) An *accessory building or structure* shall not be *erected* on a *lot* prior to the *erection* of the *main building* on the *lot* or prior to the establishment of the *principal use* to which it is associated, except if specifically permitted by this By-law.
- e) An *accessory building or structure* or part thereof shall not be located within an easement that is in favour of a *public authority*.
- f) An *accessory building or structure* shall not include any storage or *pre-fabricated shipping container*, portable storage unit, repurposed *motor vehicle* or *trailer*, in whole or in part, except:
  - i. In the Service Commercial *Zone* outside of *settlement areas*, on a *lot* having a minimum *lot area* of 2 hectares, a maximum of 2 *pre-fabricated shipping containers* are permitted as *accessory structures* to be located in the *rear yard* or *interior side yard* only;
  - ii. In Employment *Zones*, in the *rear yard* or *interior side yard* only; and,
  - iii. In Agricultural *Zones*, a *pre-fabricated shipping container* is permitted as an *accessory structure*, accessory to an *agricultural use*, to a maximum of 1 *pre-fabricated shipping container* per 4 hectares of *lot area* and not exceeding a total of 5 *pre-fabricated shipping containers* on a *lot*. (Bylaw 2018-61)
- g) Certain *accessory buildings or structures* and *accessory uses* are subject to additional regulations contained in other Sections or Subsections of this By-law as follows:
  - i. *Accessory dwelling units*: refer to Subsection 3.2.1;
  - ii. *Accessory farm dwellings*: refer to Subsection 3.2.2;
  - iii. *Agri-tourism / value-added uses*: refer to Section 3.11;
  - iv. Allowable projections: refer to Section 3.3;
  - v. *Bed and breakfast establishments*: refer to Subsection 3.4;
  - vi. *Bicycle parking facilities*: refer to Subsection 3.12.4;
  - vii. *Drive-through facilities*: refer to Subsection 3.12.3;
  - viii. *Garden suites*: refer to Subsection 3.2.4;
  - ix. *Home occupations* and *home industries*: refer to Subsection 3.7;
  - x. *Landscaping* and *planting strips*: refer to Section 3.9;
  - xi. *On-farm diversified uses*: refer to Section 3.11;

- xii. Parking and loading facilities: refer to Section 3.12;
- xiii. *Private garages*: refer to Subsection 3.12.7;
- xiv. *Renewable energy systems*: refer to Section 3.15;
- xv. *Signs*: refer to Section 3.23;
- xvi. *Swimming pools*: refer to Subsection 3.24;
- xvii. *Waste storage enclosures*: refer to Section 3.26.

- h) In addition to the above, an *accessory building or structure* shall comply with the regulations in Tables 1-1 and 1-2 based on the applicable *zone*.

**Table 1-1: Regulations for Accessory Buildings and Structures in Agricultural Zones**

Regulation		Accessory Buildings or Structures in an Agricultural Zone		
		Type 1 (0.1 to 10m <sup>2</sup> )	Type 2 (10.1 to 100m <sup>2</sup> )	Type 3 (greater than 100m <sup>2</sup> )
Maximum <i>ground floor area</i> per <i>building</i> or <i>structure</i>		10m <sup>2</sup>	100m <sup>2</sup>	Based on maximum <i>lot coverage</i> (see below)
Maximum number of <i>accessory buildings or structures</i> per <i>lot</i>	<i>Accessory buildings</i>	3	2	Based on maximum <i>lot coverage</i> (see below)
	<i>Accessory Structures</i>	Based on maximum <i>lot coverage</i> (see below)		
Permitted <i>yards</i>		All <i>Yards</i> except the <i>required front yard</i> or <i>required exterior side yard</i> , except that a Type 1 <i>accessory building or structure</i> used for the retail sale of farm produce shall be permitted in the <i>required front yard</i> and <i>required exterior side yard</i>		
Minimum setback to <i>front lot line</i>		No closer to the <i>front lot line</i> than the <i>main building</i> , and in accordance with the minimum <i>yard</i> requirements of the applicable <i>zone</i> , except that a Type 1 <i>accessory building or structure</i> used for the retail sale of farm produce shall not be located any closer than 6 metres to the <i>front lot line</i>		
Minimum setback to <i>exterior side lot line</i>		No closer to the <i>exterior side lot line</i> than the <i>main building</i> , except that a detached <i>private garage</i> in the <i>rear yard</i> shall not be located any closer than 6 metres to the <i>exterior side lot line</i> , and a Type 1 <i>accessory building or structure</i> used for the retail sale of farm produce shall not be located any closer than 6 metres to the <i>exterior side lot line</i>		
Minimum setback to <i>interior side lot line</i>		1.2 metres	2 metres	7.5 metres
Minimum setback to <i>rear lot line</i>				
Maximum <i>height</i>		3 metres	5.5 metres	10 metres
Maximum <i>lot coverage</i> of all <i>accessory buildings or structures</i> on the <i>lot</i>	<i>Lot area</i> 0.4 ha or less	8%, of the <i>lot area</i> , provided the <i>lot coverage</i> shall not exceed the maximum <i>lot coverage</i> requirement for all <i>buildings</i> and <i>structures</i> in the respective <i>zone</i>		Not permitted on this <i>lot size</i>
	<i>Lot area</i> 0.5 ha to 2 ha	Greater of 5% or 320m <sup>2</sup> , provided the <i>lot coverage</i> shall not exceed the maximum <i>lot coverage</i> requirement for all <i>buildings</i> and <i>structures</i> in the respective <i>zone</i>		
	<i>Lot area</i> 2.1 ha to 10 ha	Greater of 2.5% or 1,000 m <sup>2</sup> , provided the <i>lot coverage</i> shall not exceed the maximum <i>lot coverage</i> requirement for all <i>buildings</i> and <i>structures</i> in the respective <i>zone</i>		
	<i>Lot area</i> greater than 10 ha	Greater of 1% or 2,500 m <sup>2</sup> , provided the <i>lot coverage</i> shall not exceed the maximum <i>lot coverage</i> requirement for all <i>buildings</i> and <i>structures</i> in the respective <i>zone</i>		
Minimum setback from <i>main building</i> <sup>(1)</sup>		1.5 metres	3 metres	
Maximum distance from a <i>main building</i>		The nearest point of a wall of the accessory building must be located within 50 metres of the <i>main building</i> (Bylaw 2018-61)		

<sup>(1)</sup> No projection shall be permitted into this required setback. This setback does not apply to a balcony, deck, fence, patio, porch, roof-mounted solar panels, satellite dish/antenna, steps, sunroom, walkway or other accessory structure normally appurtenant to a *main building*.

Table 1-2: Regulations for Accessory Buildings and Structures in Non-Agricultural Zones

Regulation		Accessory Buildings or Structures in a Residential Zone	Accessory Buildings or Structures in a Commercial, Institutional or Open Space Zone	Accessory Buildings or Structures in an Employment Zone
Maximum ground floor area per building or structure	RuR and R1A Zones	100m <sup>2</sup>	Based on maximum <i>lot coverage</i> (see below)	
	All other Residential Zones	50m <sup>2</sup>		
Maximum number of accessory buildings or structures per lot	Accessory buildings	2		
	Accessory Structures	Based on maximum <i>lot coverage</i> (see below)		
Permitted yards		Interior Side Yard Rear Yard	All Yards	
Minimum setback from <i>front lot line</i>		No closer to the <i>front lot line</i> than the <i>main building</i>	4.5 metres	15 metres
Minimum setback to <i>exterior side lot line</i>		No closer to the <i>exterior side lot line</i> than the <i>main building</i> , except that a detached <i>private garage</i> in the <i>rear yard</i> shall not be located any closer than 6 metres to the <i>exterior side lot line</i>		
Minimum setback to <i>interior side lot line</i>		1.2 metres, except that this shall not apply to prevent a permitted detached <i>private garage</i> which services two <i>dwellings</i> that are each on a separate <i>lot</i>	1.2 metres, or as required in the applicable <i>zone</i> where a lesser <i>interior side yard</i> is required for the <i>main building</i>	5 metres
Minimum setback to <i>rear lot line</i>			1.2 metres	7.5 metres
Maximum <i>height</i>		5 metres	6 metres	10 metres
Maximum <i>lot coverage</i>	RuR and R1A Zones	200m <sup>2</sup> or 8% of the lot area, whichever is less, provided the <i>lot coverage</i> shall not exceed the maximum <i>lot coverage</i> requirement for all <i>buildings</i> and <i>structures</i> in the respective <i>zone</i>	8% of the <i>lot area</i> , provided the <i>lot coverage</i> shall not exceed the maximum <i>lot coverage</i> requirement for all <i>buildings</i> and <i>structures</i> in the respective <i>zone</i>	
	All other Residential Zones	100m <sup>2</sup> or 8% of the lot area, whichever is less, provided the <i>lot coverage</i> shall not exceed the maximum <i>lot coverage</i> requirement for all <i>buildings</i> and <i>structures</i> in the respective <i>zone</i>		
Minimum setback from <i>main building</i> <sup>(1)</sup>		1.5 metres	3 metres	

<sup>(1)</sup> No projection shall be permitted into this required setback. This setback does not apply to a balcony, deck, fence, patio, porch, roof-mounted solar panels, satellite dish/antenna, steps, sunroom, walkway or other accessory structure normally appurtenant to a main building.



## Meghan Birbeck

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**From:** Lyle Killins [REDACTED]  
**Sent:** March 19, 2021 11:56 AM  
**To:** Meghan Birbeck  
**Subject:** Re: Notice of Hearing - A062021WL - Kerr

Good Morning, Meghan

The garage location complies with the requirement of Part 8, (Sewage Systems) Ontario Building Code relating to 'Minimum Separation

Distances'. A minimum separation distance from a structure to a sewage system is 5 metres.

Thus, this Department has no objection to the application as proposed.

Lyle Killins C.P.H.I.(c)

Director Part 8, Ontario Building Code

Township of West Lincoln

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**From:** Meghan Birbeck <[mbirbeck@westlincoln.ca](mailto:mbirbeck@westlincoln.ca)>  
**Sent:** March 16, 2021 3:02 PM  
**To:** Meghan Birbeck <[mbirbeck@westlincoln.ca](mailto:mbirbeck@westlincoln.ca)>  
**Subject:** Notice of Hearing - A062021WL - Kerr

Good afternoon,

Please find attached the above mentioned notice for a minor variance application for **A06/2021WL – Kerr**.

If you have any comments regarding this application I would appreciate if I could get them to me by Wednesday, March 24th, 2021.

If you have any questions, please contact myself at 905-957-5140 or by email at [mbirbeck@westlincoln.ca](mailto:mbirbeck@westlincoln.ca)

Sincerely,  
Meghan Birbeck



**Meghan Birbeck**

**Planner I**

Tel: 905-957-3346 ext. 5140  
Email: [mbirbeck@westlincoln.ca](mailto:mbirbeck@westlincoln.ca)  
Web: [www.westlincoln.ca](http://www.westlincoln.ca)


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# Memo

**To:** Meghan Birbeck, Planner I  
**From:** Jennifer Bernard, Coordinator of Engineering Services  
**Date:** March 22, 2021  
**Re:** File A06/2021WL – Bill Kerr and Sandra Williams (1768 Caistor  
Gainsborough Townline Rd)

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A review has been completed of this minor variance application to permit an existing garage to remain that is located  $\pm 91.44$  centimeters in front of the property's main dwelling which does not comply with the Township Zoning By-law 2017-70.

Public Works has no objections or comments to provide on this application.