

DATE: March 31st, 2021

REPORT NO: COA-003-21

SUBJECT: **Recommendation Report**
Application for Minor Variance by Alan & Margaret Davies
Agent: Doug Dixon (DJ Custom Renovations)
File No. A03/2021WL

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

OVERVIEW:

- A minor Variance application has been submitted by Doug Dixon (Agent) on behalf of owners Alan and Margaret Davies for the property legally known as the former Township of Gainsborough, Concession 1, Part lot 14, RP30R9476 PT, Part 6, municipally known as 820 Regional Road 27 (Wellandport Road)
- This Minor Variance application has been submitted to permit a proposed accessory garage to be located 15.55 metres (+51 feet) in front of the property's main dwelling whereas an accessory building cannot be located closer to the front lot line than the main building.
- This application also requests a second variance that is required to permit the garage to be built with a minimum setback of +5.08 metres (16.67 feet) from the front lot line whereas the garage is required to have a minimum setback of 7.5 metres from the properties front lot line.
- The main dwelling that currently exists on the property along with the Environmental Conservation features that are found on the property, and the location of the septic system restrict the applicant in building the proposed garage in the rear or side lot of their property.
- 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 Doug Dixon (Agent) on behalf of Alan and Margaret Davis as outlined in Report COA-003-21, to recognize an accessory building being located closer to the front lot line than the main building as well as to permit a garage to be built with a minimum setback of 5.08 metres whereas it is required to have a minimum setback of 7.5 metres from the property's front lot line, BE APPROVED; subject to the following condition
 - a. That the Department of Planning and Building approve the exterior design of the accessory building, which shall be alternatively designed in keeping with the residential characteristic of the property.

BACKGROUND:

The subject lands are situated on the west side of Wellandport Road, north of Canborough Road, being legally described as the former Township of Gainsborough Concession 1, Part Lot 14, RP30R9476 Pt Part 6, in the former Township of Gainsborough, now in the Township of West Lincoln, Regional Municipality of Niagara. The subject property is municipally known as 820 Regional Road 27 (Wellandport Road) (See attachment 1 for a site sketch)

An application for a Minor Variance has been made to recognize a proposed detached garage to be located 15.55 metres in front of the property's main dwelling whereas accessory buildings cannot be located closer to the front lot line than the main building, and to permit the proposed garage to be located with a minimum setback of 5.08 metres from the front lot line whereas the required setback is 7.5 metres.

This Minor variance is the result of a building permit application which was submitted in September 2020 and did not meet the zoning requirements for a R1A zone for an accessory building. The applicants are currently working with the Niagara Peninsula Conservation Authority on obtaining a work permit which should be submitted with a revised building permit after the decision of this 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 to be within the Hamlet Settlement Area of Wellandport as well as the Natural Heritage System. The predominant land use within the Township's Hamlet Settlement Areas shall be for single detached dwellings. Development shall comply with Natural Heritage policies of the Township's Official Plan. Where detailed natural heritage and natural hazard mapping is not currently available, development applications may be required to complete necessary studies and analysis prior to the development approval. In addition, all development will be subject to Regulation 155/06 of the Niagara Peninsula Conservation Authority when a development is within or adjacent to the lands that are subject to their regulations.

The Natural Heritage system shall be protected, and development should maintain, enhance, or restore the ecosystem health and integrity. First priority is given to avoiding negative environmental impacts. If negative impacts cannot be avoided then mitigation measures shall be required.

Township 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 the proposed location will help protect the environmentally protected features that surround the dwelling. The proposed location of the new detached garage, generally fits the character of the surrounding area. The applicants are currently in contact with a planner from the Niagara Peninsula Conservation Authority and are in the process of obtaining a work

permit.

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

The subject land is zoned R1A Residential Low Density, Environmental Conservation and Environmental Protection under the Township's Zoning By-law 2017-70, as amended. The parcel of land is a 13.38 hectare (32.80 acre) parcel of land. The Residential Low Density zone permits single detached dwellings and their associated accessory buildings. The proposed accessory building is a permitted use under the regulations of the R1A zone.

Under the Townships Zoning By-Law 2017, the proposed accessory building is to meet a minimum distance of 15 metres from the front lot line, and 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 an accessory structure and use.

The subject lands have Niagara Peninsula Conservation Authority regulated wetlands located on approximately 90% of the entire parcel of land. Environmental Protection and Environmental Conservation regulated zones do not permit new buildings or structures within the regulated wetlands when they can be located in a non-regulated portion of the lot. The proposed location of the garage is the only location that remains zoned Low Density Residential and is the only location where an accessory building can be permitted.

This application is requesting to recognize an accessory building that is 15.55 metres closer to the front lot line than the main building with a front yard setback of 5.8 metres whereas 7.5 metres is required. Based on the above, the proposed minor variance maintains the general intent and purpose of the Zoning By-law.

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

The applicant had proposed to construct a 74 square metre accessory building. The applicants submitted a building permit last year with Township staff, in which planning staff determined it had to go through a Minor Variance Application to permit its location. This building is proposed to be used for storage purposes, which is permitted on a Low Density Residential property.

The proposed accessory building is generally located in the only area on the subject property that is zoned R1A and not effected by the septic system and residence. Approximately 10% of the entire property is zoned Low Density Residential, while the other 90% is within an environmental protection layer. As such, Planning Staff are of the opinion that the requested variance is an appropriate development and use of the only land that can be used for this specific development on this property. Staff believe that a condition is appropriate for this variance. The condition proposed by staff is related to the exterior design. The condition will help ensure a proper streetscape appearance.

Respecting Our Roots, Realizing Our Future

Is the proposal minor in nature? Yes

The subject application is requesting to permit a proposed accessory building that is closer to the front lot line than the main building, and is also requesting a 2.42 metre reduction to permit a setback of 5.08 metres where 7.5 metres is the required minimum. The proposed accessory structure is approximately 74 square metres in size and complies with the maximum permitted area in a R1A zone. (Please see attached site sketch)

This property is approximately 13.28 hectares in size and there is 0.36 hectares of it that is developable due to the existing regulated lands on the property. Planning staff understand that the septic system also takes up a majority of this area and that this is the only location that the accessory garage could be constructed. As such, planning staff are of the opinion that the requested 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 12th 2021. A yellow sign was also posted on the property a minimum of 10 days before the hearing.

The Township's Septic Inspector has specified that there are no objections to this request indicating

The Township Public Works Department and Septic Inspector have no objections to this application.

The Niagara Peninsula Conservation Authority do not have any objection to the proposed minor variance and a fee will not be required. The Niagara Peninsula Conservation Authority further not that a Building Permit Clearance was issued by them in 20217 for the house that was built on the property. Further noting that the proposed location of the garage falls within an area that is already heavily disturbed. As such, it is unlikely that the proposed garage will have an impact on any Niagara Peninsula Conservation Authority regulated features or hazards.

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 12th 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 26th, during the preparation of this report.


CONCLUSION:

A Minor Variance application has been submitted by Doug Dixon (Agent) on behalf of Alan and Margaret Davies for the property municipally known as 820 Wellandport Road. The Minor Variance application is submitted to permit a proposed accessory garage to be located in-front of the front wall of the main dwelling and to be located with a setback of 5.08 metres whereas 7.5 metres is the required minimum. 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. Location Map
2. Site Sketch
3. Accessory Building Zoning Provisions
4. Agency Comments

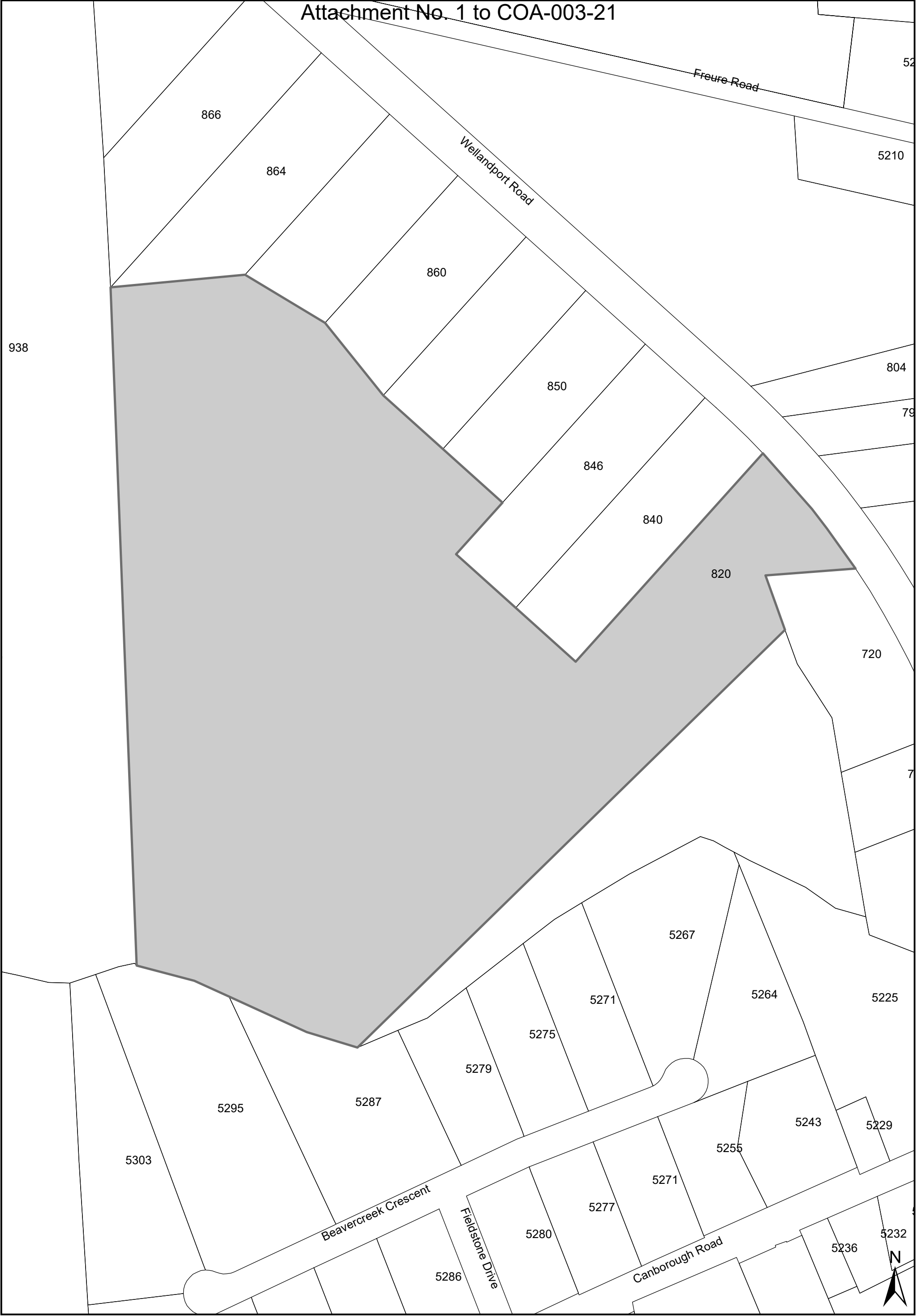
Prepared by:



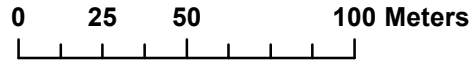
Madyson Etzl
Planner II



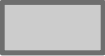
Brian Treble, RPP, MCIP
Director of Planning and Building

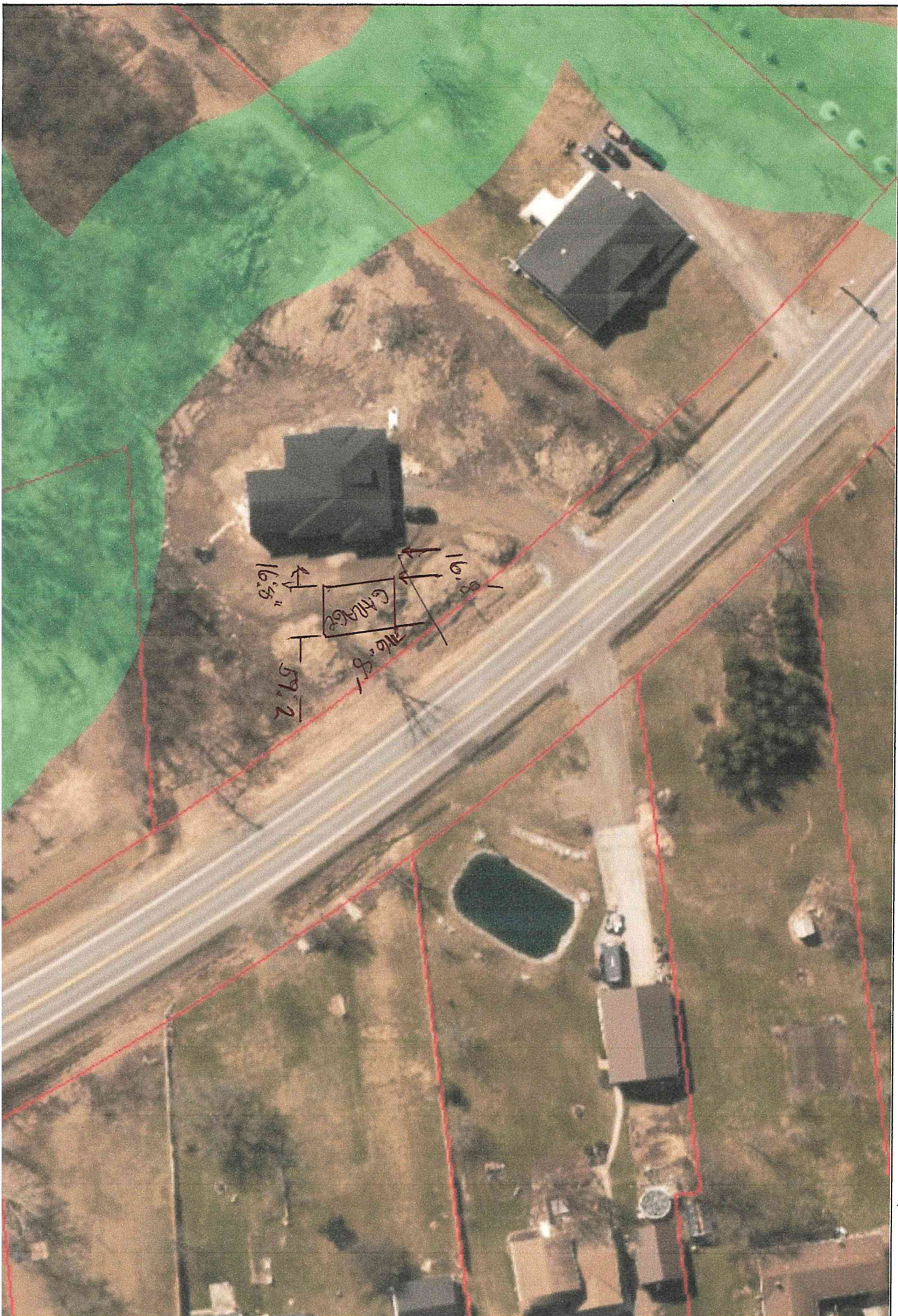


Location Map
820 Wellandport Road



Legend

 Subject Property



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 ²)	Type 2 (10.1 to 100m ²)	Type 3 (greater than 100m ²)
Maximum <i>ground floor area</i> per <i>building</i> or <i>structure</i>		10m ²	100m ²	Based on maximum <i>lot coverage</i> (see below)
Maximum number of <i>accessory buildings</i> or <i>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</i> or <i>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 ² , 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 ² , 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 ² , 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> ⁽¹⁾		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)		

⁽¹⁾ 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 ²	Based on maximum <i>lot coverage</i> (see below)	
	All other Residential Zones	50m ²		
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 ² 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 ² 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> ⁽¹⁾		1.5 metres	3 metres	

⁽¹⁾ 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

From: Lyle Killins [REDACTED]
Sent: March 22, 2021 10:06 AM
To: Meghan Birbeck
Subject: Re: Notice of Hearing - A032021WL - Davies

Hi Meghan

The existing sewage system was installed as per the requirements of Part 8 Ontario Building Code. The proposed garage does not infringe on minimal separation distance from the sewage system. Thus, no objection to the application as proposed at this time.

Lyle Killins C.P.H.I.(c)
Director Part 8, O.B.C.
BCIN #11112

From: Meghan Birbeck <mbirbeck@westlincoln.ca>
Sent: March 16, 2021 2:32 PM
To: Meghan Birbeck <mbirbeck@westlincoln.ca>
Subject: Notice of Hearing - A032021WL - Davies

Good afternoon,

Please find attached the above mentioned notice for a Minor Variance application for **A03/2021WL – Davies**.

If you have any questions, please contact myself at 905-957-5140 or by email at mbirbeck@westlincoln.ca

Sincerely,
Meghan Birbeck

	<p>Meghan Birbeck</p> <p>Planner I</p> <p>Tel: 905-957-3346 ext. 5140 Email: mbirbeck@westlincoln.ca Web: www.westlincoln.ca</p> <p>  </p>
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COVID Update Feb 26, 2021 – The Provincial Government has stated starting Monday, March 1, 2021 the Region of Niagara will move to Red - Control stage. In compliance with these regulations, the Township Office is closed, however, staff are available to assist the public, Monday to Friday, 9:00 am to 4:30 pm by phone at 905-957-3346 or by email. The best source of information is our new website <https://www.westlincoln.ca> where you can also find specific email address and phone extensions.

Memo

To: Meghan Birbeck, Planner I
From: Jennifer Bernard, Coordinator of Engineering Services
Date: March 22, 2021
Re: File A03/2021WL – Alan and Margaret Davis (820 Wellandport Rd)

A review has been completed of this minor variance application to permit a garage to be built ±15.55 meters in front of the property's main dwelling and with a minimum setback of ±5.08 meters from the front lot line which does not comply with the Township Zoning By-law 2017-70.

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

Meghan Birbeck

From: Nikolas Wensing <nwensing@npca.ca>
Sent: March 18, 2021 9:17 AM
To: Meghan Birbeck
Subject: Re: Notice of Hearing - A032021WL - Davies

Hello Meghan,

I can confirm that the NPCA will have no objection to the proposed minor variance. A fee will not be required. A Building Permit Clearance was issued by the NPCA in 2017 for the house that was built on the property, and the proposed location of the garage falls within an area that is already heavily disturbed. As such, it is unlikely that the proposed garage will have an impact on any NPCA regulated features or hazards.

Please circulate the NPCA on any or alternate additional proposed development or site alteration on the subject property, as a significant portion of the property includes NPCA regulated features and potential hazards.

[REDACTED]

Sincerely,

Nikolas Wensing, B.A., MPlan
Watershed Planner
Niagara Peninsula Conservation Authority (NPCA)
250 Thorold Road West, 3rd Floor, Welland, ON, L3C 3W2
905-788-3135, ext. 228
nwensing@npca.ca
www.npca.ca

From: Meghan Birbeck <mbirbeck@westlincoln.ca>
Sent: Tuesday, March 16, 2021 2:32 PM
To: Meghan Birbeck <mbirbeck@westlincoln.ca>
Subject: Notice of Hearing - A032021WL - Davies

Good afternoon,

Please find attached the above mentioned notice for a Minor Variance application for **A03/2021WL – Davies**.

If you have any questions, please contact myself at 905-957-5140 or by email at mbirbeck@westlincoln.ca

Sincerely,
Meghan Birbeck