

DATE: July 21st, 2021

REPORT NO: COA-024-21

SUBJECT: **Recommendation Report**
Application for Minor Variance by Jonathan Vellekoop
File No. A14/2021WL

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

OVERVIEW:

- A minor Variance application has been submitted by Jonathan Vellekoop for the property legally known as Concession 4, Part Lot 24, RP30R5224 Part 1, RP30R11698 Part 1, in the former Township of Gainsborough, now in the Township of West Lincoln, Region of Niagara. The property is municipally known as 3828 Concession Four Road.
- This Minor Variance application has been submitted due to a zoning compliance infraction caused by building without a permit.
- Planning staff notified the applicant of the deficiency and later found out that the 409 square metre agricultural accessory building was constructed 98.73 metres from the main residential dwelling whereas Table 1-1 of the Township's Zoning By-Law states accessory buildings shall be located within 50 metres of the residential dwelling on the property.
- The applicant has constructed the accessory building to the south-west of the main one storey dwelling.
- This application has now 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 Jonathan Vellekoop as outlined in Report COA-024-21, to recognize a 409 square metre accessory building to be located 98.73 metres from the main residential building whereas Table 1-1 of the Township's Zoning By-Law requires accessory buildings to be located within 50 metres of the main residential building, BE APPROVED, subject to the following condition:
 - a. That the applicants obtain an NPCA permit for the accessory building.

BACKGROUND:

The subject lands are situated on the south side of Concession four road, west of Victoria Avenue and East of Rosedene Road, being legally described as Concession 4, Part Lot 24, RP30R5224 Part 1, RP30R11698 Part 1, in the former Township of Gainsborough, now in the Township of West Lincoln, Region of Niagara. The subject property is municipally known as 3828 Concession Four Road. (See attachment 1 for a site sketch)

An application for a Minor Variance has been made to recognize the newly constructed 409 square metre accessory building (greenhouse) that is located 98.73 metres from the main building, whereas Table 1-1 of the Township's Zoning By-Law states that "The nearest point of a wall of the accessory building must be located within 50 metres of the main building." The applicant previously submitted a building permit application to construct a new accessory building on September 25th 2020. A planning review was started and the correspondence between the applicant and planning staff regarding location of accessory building occurred, and confirmed the need for a minor variance application to recognize the location of the accessory building in relation to the main building on the property.

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 409 square metre accessory greenhouse 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 2.39 hectares (5.91 acres) The agricultural zone permits single detached dwellings and their associated accessory buildings. The proposed accessory building (greenhouse) is a permitted use under the regulations of the Agricultural Zone.

Under Table 1-1 of the Townships Zoning By-law accessory buildings shall be no further than 50 metres from the main dwelling. This ensures that the Township of West Lincoln planning department is planning and developing in clusters to preserve agricultural land and to minimize the potential for large accessory buildings to be used to operate large businesses out of. The applicant has constructed the accessory building 98 metres from the dwelling, 48 metres further than the required setback is. This proposal did not meet the general intent and purpose of the zoning by-law, planning staff can see that the existing land is not farmed, therefore the constructed building is not taking up viable farm land. Planning staff also recognize that this may have been the only flat piece of

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land on the property that was not already occupied as well.

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

Yes

The applicant has previously constructed a 409 square metre accessory building. The building was constructed without a building permit and without proper compliance to the Township's Zoning By-Law for agricultural accessory buildings. The building is currently being used by the applicants as a hobby greenhouse. Agriculturally zoned properties permit agricultural accessory buildings.

The applicant has stated that the development was constructed in this specific location to allow for access from the existing pond on the property for pumping water into the greenhouse for irrigation for the plants, this also allowed for the water pipes to be shorter in length to reduce the frost and freezing of them in the cooler months. The existing green space on the east side of the driveway is currently holds the existing septic system for the property, as well as a soccer field, and baseball field. Upon further site visits it was also noted that this portion of the property is the only portion that is flat for a block for the building to be placed on. As such, Planning staff feel that this accessory greenhouse can be considered appropriate development of the land.

Is the proposal minor in nature?

Yes

The subject application is requesting to recognize an existing accessory building that is located further than 50 metres from the main dwelling. The purpose of the Township's Zoning By-law 2017-70 requiring accessory buildings to be located within 50 metres is to ensure that we are planning and developing in clusters to preserve agricultural land and to minimize the potential for large accessory buildings to be used to operate large businesses out of.

The chosen location for the accessory greenhouse was to maintain close proximity to the existing pond to allow the applicant to have proper water collection for the greenhouses irrigation system. This location allowed the applicant to prevent running the drain lines across the existing driveway. The location was also chosen due to this area of the property being the only flat piece of the property which was not currently being used for anything. The lands within the 50 metres of the existing dwelling is where the existing septic lines and septic tank is located.

Planning staff note that as this property is a large agricultural property, and therefore has limited neighbours, the setback can be considered 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 Monday July 5th

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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

The Regional's comments have been attached to the bottom of this report.

PUBLIC COMMENTS:

Notification was mailed to all neighbouring properties within a 60m radius of the subject lands on Monday July 5th 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 July 16th 2021 at the time of preparing this report.


CONCLUSION:

A Minor Variance application has been submitted by John Vellekoop for the property municipally known as 3828 Concession 4 Road. The Minor Variance application was submitted due to a zoning by-law infraction being caught and mentioned to the owner at planning review stage. The applicant proceeded to construct the accessory building without a building permit, therefore this application is now requesting to recognize the newly constructed 409 square metre accessory greenhouse that is located further than 50 metres from the main dwelling. 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.

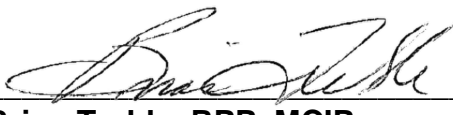
ATTACHMENTS:

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

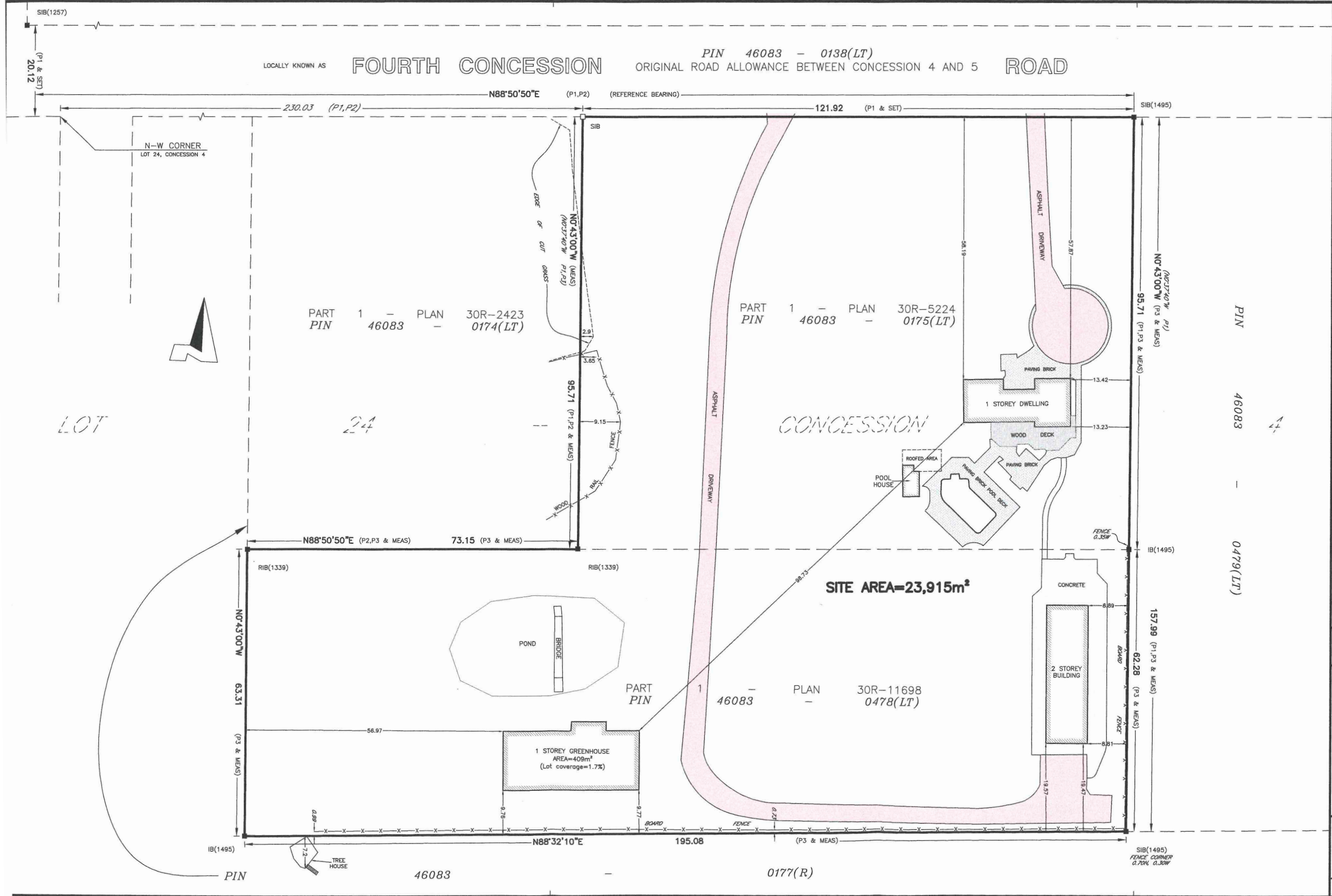
Prepared by:



Madyson Etzl
Planner II



Brian Treble, RPP, MCIP
Director of Planning and Building



PLAN OF SURVEY OF
PART OF LOT 24, CONCESSION 4
GEOGRAPHIC TOWNSHIP OF GAINSBOROUGH
IN THE
TOWNSHIP OF WEST LINCOLN
REGIONAL MUNICIPALITY OF NIAGARA
SCALE 1 : 600
DONALD G. CHAMBERS
ONTARIO LAND SURVEYOR

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NOTES
ALL BUILDING TIES ARE PERPENDICULAR TO PROPERTY LINES UNLESS SHOWN OTHERWISE.
ALL TIES ARE TO SIDING UNLESS OTHERWISE NOTED.
BEARINGS ARE ASTRONOMIC AND ARE REFERRED TO THE SOUTHERLY LIMIT OF THE FOURTH CONCESSION ROAD AS SHOWN ON PLAN 30R-5224 ON A COURSE OF N88°50'50"E.

LEGEND		
—	DENOTES	SURVEY MONUMENT FOUND
—		SURVEY MONUMENT SET
SIB		STANDARD IRON BAR
SSIB		SHORT STANDARD IRON BAR
CC		CUT CROSS
IB		IRON BAR
CP		CONCRETE PIN
RIB		ROUND IRON BAR
IP		IRON PIPE
MEAS		MEASURED
WIT		WITNESS
OU		ORIGIN UNKNOWN
N/S/E/W		NORTH/SOUTH/EAST/WEST
NKA		NOW KNOWN AS
PIN		PROPERTY IDENTIFICATION NUMBER
P1		DEPOSITED PLAN 30R-5224
P2		DEPOSITED PLAN 30R-2423
P3		DEPOSITED PLAN 30R-11698
1257		R. LAROCQUE, O.L.S.
1339		W. A. MASCOE, O.L.S.
1495		P. D. REITSMA, O.L.S.

METRIC NOTE
DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

SURVEYOR'S CERTIFICATE
I CERTIFY THAT:
1) THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT AND THE REGULATIONS MADE UNDER THEM;
2) THE SURVEY WAS COMPLETED ON THE 24th DAY OF NOVEMBER, 2020.

Dec. 2, 2020
DATE
DONALD G. CHAMBERS, B. Sc., O.L.S.

CHAMBERS AND ASSOCIATES SURVEYING LTD.
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DRAWN BY: D. H. T. MSCAD: 87358-4_MS DWG: 87358-4 FILE No: 87-35

- 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*.

Memo

To: Meghan Birbeck, Planner I
From: Jennifer Bernard, Coordinator of Engineering Services
Date: July 15, 2021
Re: File A14/2021WL – Velekoop

A review has been completed of this minor variance application for 3828 Concession 4 Rd to permit an existing accessory building to remain located 98.73m from the property's main dwelling whereas the Township's Zoning By-law 2017-70 requires an accessory building to be located within 50m of the main building.

Public Works has no objection to this application.

Meghan Birbeck

From: Lyle Killins <lkillins@live.com>
Sent: July 14, 2021 1:16 PM
To: Meghan Birbeck
Subject: Re: West Lincoln, Notice of Hearing for July 21

Hi Meghan,

The three applications specifically A14,A15 and A16/2021WL fulfill the requirements of Tables 8.2.1.6. A and B., Part 8 Ontario Building Code.

Thus, no objection to the applications as proposed.

Please call should additional information be required.

Regards .

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

BCIN #11112

From: Meghan Birbeck <mbirbeck@westlincoln.ca>
Sent: July 5, 2021 12:46 PM
To: Lyle Killins <lkillins@live.com>
Subject: FW: West Lincoln, Notice of Hearing for July 21

Good afternoon,

There are three rural applications to be heard at the Township of West Lincoln's July 21st Committee of Adjustment Hearing.

1. Minor Variance – A14/2021WL – Velekoop – 3828 Concession 4 Rd
2. Minor Variance – A15/2021WL – Vandermeulen – 4552 Sixteen Rd
3. Minor Variance – A16/2021WL – Twenty View Farms – 7224 Twenty Rd

Please see find the full package for the applications attached. I will also print them and place them in your folder.

Thank you so much,
Meghan

	<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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Meghan Birbeck

From: Alderman, Aimee <Aimee.Alderman@niagararegion.ca>
Sent: July 14, 2021 8:10 AM
To: Meghan Birbeck
Cc: Development Planning Applications; Karlewicz, Lori
Subject: Regional Response - 3828 Concession 4 Road, West Lincoln

Hi Meghan,

Regional Planning and Development Services staff has reviewed the proposed Minor Variance for 3828 Concession 4 Road in West Lincoln, to permit that an existing accessory building remain further from the property's main dwelling than allowed in the Township's Zoning By-law. The following comments are offered from a Provincial and Regional perspective:

The subject property exhibits potential for the discovery of archaeological resources due to proximity to a watercourse to the west of the property. The Provincial Policy Statement (PPS) and Regional Official Plan (ROP) provide direction for the conservation of significant cultural heritage and archaeological resources. Specifically, Section 2.6.2 of the PPS and Policy 10.C.2.1.13 of the ROP state that development and site alteration are not permitted on lands containing archaeological resources or areas of archaeological potential, unless significant archaeological resources have been conserved. Based on available aerial imagery, it does not appear that the area of the accessory building has been subjected to recent, intensive or extensive ground disturbance as defined by the Province. Given that the accessory building has been constructed, Regional staff do not require the completion of an archaeological assessment; however, the applicant should be made aware that at least a Stage 1 Archaeological Assessment may be requested with future Planning Act applications to facilitate development on the subject property.

The subject property is impacted by the Region's Core Natural Heritage System (CNHS), consisting of Type 2 (Important) Fish Habitat. Consistent with Regional Official Plan (ROP) Policy 7.B.1.15, an Environmental Impact Study (EIS) is generally required in support of site alteration and/or development proposed within 15 metres of Type 2 Fish Habitat. The Variance is proposed to permit an existing accessory building to remain. The building is located more than 15 metres from Type 2 Fish Habitat, and as such Environmental planning staff offer no objection to the proposed Minor Variance.

Should you have any questions regarding the above comments, please do not hesitate to contact me.

Thank you,

Aimee Alderman, MSc, MCIP, RPP
Senior Development Planner
Planning and Development Services
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