

DATE: September 13, 2021

REPORT NO: PD-102-2021

SUBJECT: **Recommendation Report- Zoning By-Law Amendment
(Temporary Use By-law) Richard and Anita Merritt- Garden
Suite Application**

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

OVERVIEW:

- An application for a temporary use by-law to permit a Garden Suite has been submitted by Richard and Anita Merritt for the property located at 9397 Twenty Road.
- The applicant wishes to place a modular home on the property for their son to reside in and contribute to the work on the farm.
- The applicants are requesting authority to place the garden suite on the property temporarily for twenty years, with the option of an extension every three years after the initial time period.
- The applicants are requesting a front yard setback of 20 metres, whereas the dwelling has a front yard setback of 43 metres.
- Accessory buildings on an agricultural zone shall be located behind or in line of the front wall of the main building on the property, unless an exception is granted.
- The garden suite provisions of the Planning Act and the Township of West Lincoln Official Plan permit secondary residential units on a parcel of land to assist with the needs of the family.
- The applicant has requested that the temporary use exist on the property for a 20 year timeframe. However, the Township's Official Plan currently states that temporary uses shall exist for a maximum of 10 years.
- Section 39.1(3) of the Planning Act allows the Council of a municipality to grant the temporary use of a Garden Suite for up to 20 years, subject to the policies of the Township of West Lincoln Official Plan.
- Currently, if the use is required for more than 10 years, the temporary use can be renewed on a 3 year basis, as needed.
- Planning staff have been jointly working with the Region to amend the Township's Official Plan policies to extend from 10 years to a maximum of 20 years. Regional staff are in support of this change. Regional comments can be found as Attachment 3 to this report.
- A public meeting was held via Zoom on July 26th 2021. No public comments were received during this meeting. Staff have reviewed the proposed zoning by-law amendment against the relevant Provincial, Regional and Local policy and can recommend approval of this application.
- Approval for 20 years can occur after staff report PD-101-2021 is approved by Township Council to change the Official Plan Policy from ten (10) years to twenty (20) years.

RECOMMENDATION:

1. That, Report PD-102-2021, regarding “Zoning By-law Amendment (Temporary Use By-law) –Richard and Anita Merritt Garden Suite Application”, dated September 13th 2021, be RECEIVED; and,
2. That, Section 34(17) of the Planning Act apply and that no further public meeting is required; and,
3. That, an application for Zoning By-law Amendment 1601-011-21 submitted by Richard and Anita Merritt and a corresponding Zoning By-law be APPROVED and passed; and
4. That, Staff be authorized to circulate the Notice of Decision for the Zoning By-law Amendment with the corresponding 20-day appeal period

ALIGNMENT TO STRATEGIC PLAN:

Theme #3

- Strategic, Responsible Growth

BACKGROUND:

An application has been submitted by Anita Merritt to request the use of a temporary 1,070 square foot (100 square metre) modular home on the property municipally known as 9397 Twenty Road. The applicants wish to have their son live in the temporary home and contribute to the farm. The temporary use provisions of the Planning Act permit a garden suite to be located on the property for a maximum of twenty years, however the Township’s Official Plan only permits a temporary use to be on a property for a maximum of 10 years. Both timeframes allow a possibility of extension after the initial time period of 3 years.

The applicants are requesting to construct a 100 square metre home on the property with a 20 metre setback from the front lot line whereas the main dwelling is located with a 43 metre setbacks. All accessory buildings shall be located in line with or behind the front wall of the main building on the property.

As a result of the Pre-Consultation meeting on August 6th 2020. The applicant was provided the information that the Garden Suite Zoning would be for a period of 20 years and the owners would have to complete a temporary use agreement/site plan for the garden suite. It was later discovered that the Township’s Official Plan does not align with the max number of years as permitted by the Planning Act, and only has a Temporary use provision for Garden Suites for a period of 10 years, with the option of an extension to the temporary use by-law of not more than three years at a time, whereas the Planning Act states a period of up to 20 years with the possibility of extension of no more than three years at a time.

A public meeting was held for the proposed application on July 26th 2021. No written or verbal comments were received in regards to this application.

CURRENT SITUATION:

Township Staff have reviewed and are providing the relevant Provincial, Regional and

Local policy surrounding Garden Suites below:

1. Provincial Policy Statement (PPS)

The PPS does not speak to Garden Suites, but does provide general direction to provide a range of housing types in a municipality. The authority to provide opportunity for municipalities to include policies for garden suites comes from the Planning Act, which allows municipalities to pass by-laws that will permit garden suites to be on a property for not more than 20 years. The Planning Act defines a “garden suite” as a one-unit detached residential structure containing a bathroom and kitchen facilities that is ancillary to an existing residential structure and that is designed to be portable.

The proposed structure meets this definition as it is a modular home to be put on the property (attachment 1), but there are updates required to be made to the existing septic system before the garden suite can be accommodated on-site. The purchased modular home will be 6.7 feet by 16 feet, 1072 square metres in ground floor area.

There will be a site plan application to follow this rezoning application should it be approved and within that agreement a required \$5000 security deposit must be submitted as well as a requirement to be included to update the septic system to meet the necessary requirements to accommodate the temporary garden suite.

2. A Place to Grow – Provincial Growth Plan (P2G)

Applications filed after June 16, 2006 must conform to the A Place to Grow – Provincial Growth Plan. Section 1.2.3 of the P2G provides direction on how to read the Growth Plan, specifically noting that: *This Plan must also be read in conjunction with other provincial plans as defined in the Planning Act that may apply within the same geography.* Since there are no applicable policies within the P2G for this particular situation, the PPS will be the only set of provincial policies to apply.

3. Greenbelt Plan

Applications must conform to the Greenbelt Plan if they fall within the mapping provided with the Greenbelt Plan. Since the subject lands are outside the area designated in the Greenbelt Plan, the PPS is the provincial policy that applies in this situation.

4. Regional Policy Plan (RPP)

The subject property is within the prime agricultural area according to the Provincial Policy Statement, and the Good General Agricultural Area according to the Regional Official Plan. The Planning Act permits temporary uses (garden suites) for up to 20 years. Garden suites are to be designed to be portable and will therefore not result in intensive/extensive ground disturbance. The parcel contains and is adjacent to portions of the Regional Core Natural Heritage System, including the Lower Twenty Mile Creek Provincially Significant Wetland Complex, Significant Woodlands, Significant Valley land and two watercourses (Critical and Important Fish Habitats). As the location of the garden suite has not changed since the Pre-consultation meeting on August 6th 2020, Regional Staff did not require circulation of the proposal.

The RPP does not speak specifically to garden suites, however, does support temporary dwelling units in the agricultural area for relatives of the occupants of the principle dwelling. The RPP relies on the local Official Plan and By-law to provide more detailed policies regarding garden suites. As such, the Township policies are what will direct the development of the garden suite.

Planning staff have been in consultation with Regional planning staff in regards to the change for the maximum amount of time for a temporary use garden suite to be increased from ten (10) years to twenty (20) years. Please see another staff report on this agenda and the corresponding attached Official Plan Amendment and By-Law.

5. Township of West Lincoln Official Plan (OP)

The Township OP provides the following current requirements for garden suites:

- i. *The unit shall only be used on a temporary basis in conjunction with an existing dwelling on the same lot;*
- ii. *The lot size/layout in terms of accommodating the garden suite without unreasonable loss of private outdoor amenity area;*
- iii. *Compatibility of the garden suite with the surrounding neighbourhood in terms of general form, privacy, shadowing and separation distance;*
- iv. *Adequacy of site access and on-site parking;*
- v. *The unit is not placed in the front yard of the lot or the required front yard as established by the Zoning By-law;*
- vi. *No additional access is provided to the lot from a public road;*
- vii. *Placement of the unit is not exclusively removed from the existing dwelling;*
- viii. *The proposed site is capable of accommodating an approved septic and water supply system as determined by the Township of West Lincoln, or verification that adequate municipal services can be provided on this lot.*
- ix. *The location of such unit shall be in accordance with the Minimum Distance Separation Formulas where the use is proposed near any livestock operation.*
- x. *The main dwelling unit and the proposed garden suite are clustered in the same general location on the property.*

The following is Planning Staff's observations in relation to the above noted policies:

- i. The proposed garden suite must be removed after it has served its purpose. As such, the use will be temporary in nature.
- ii. The garden suite will not adversely impact the surrounding neighborhood.
- iii. The garden suite will be accessed by a driveway branching off of the existing driveway.
- iv. No additional access will be provided to the lot from a public road.
- v. The subject lands are not currently capable of providing the required septic needs of the garden suite, but do have the room to accommodate a new septic bed to accommodate the garden suite. If the rezoning is approved, a site plan application will follow requiring that the septic system and cistern be updated to accommodate the garden suite on the property.
- vi. The garden suite is proposed to be clustered within the existing buildings on the property.

6. Township of West Lincoln Zoning By-Law (ZBL)

The property is zoned Agricultural in the Township's ZBL. This zone allows for agricultural and residential uses, as well as uses accessory thereto. The Agricultural zone permits a garden suite on the property as an accessory use, subject to the provisions of the Township's Garden Suite regulations. The location of the proposed garden suite is required to meet the setbacks of the Agricultural (A) zone for a dwelling unit. The applicants are requesting the accessory building to be located closer to the front lot line than the main dwelling on the property. The garden suite is proposed to be located with a 20 metre setback from the front lot line whereas the main dwelling is located with a 43 metre setback.

The modular home is proposed to be located to the north west of the existing single detached dwelling. Approximately 20 metres from the front lot line, whereas the existing dwelling is located 43 metres from the front lot line. The application meets all other zoning provisions for an accessory building at this time. This front yard setback deficiency will be recognized in the Temporary use site specific provision.

The property will continue to be zoned Agricultural (A) with a Temporary Use Provision number which will be outlined as T-# for a period of twenty (20) years. The start date will be September 27th 2021 and it will expire on September 27th 2041. Regulations include "As per the parent zone, except: the garden suite shall be limited to a one-unit detached residential structure containing a bathroom and kitchen facilities. As well as a front yard setback of 20 metres whereas 43 metres is required.

Planning staff have included an authorizing by-law into this report to authorize Township's Mayor and Clerk to sign the Site Plan Agreement for Richard and Anita Merritt should this Zoning Amendment be approved and once the 20 day appeal period for this zoning application is over. This by-law is attached to this report as attachment number 3.

FINANCIAL IMPLICATIONS:

A \$5,000.00 security will be obtained as part of the site plan process. This will be held by the Township until the temporary structure is removed. This money is held as security to ensure the use is removed after it is no longer needed.

Discussions with the Treasury Department has identified that the garden suite will be taxed as part of the property taxes for the period of time that it is on the property.

INTER-DEPARTMENTAL COMMENTS:

Notice of Public Meeting was circulated to all relevant agencies on June 30th 2021. A yellow sign was posted on the property and a notice of hearing was posted to the website. The Niagara Region, Township Building Department, Septic Inspector, Public Works Department, and Drainage Superintendent have no objection to application as proposed.

The Niagara Regional Planning Staff have provided comments relating to the Garden Suite Official Plan Amendment recommendation report that is being presented in conjunction with this report. Their comments are attached.

CONCLUSION:

Township staff have completed a preliminary review of this application against the applicable planning policy.

The lot as a whole will need to be rezoned to Agricultural (A) with a Temporary Use Provision (T-11) to recognize the Garden Suite for twenty (20) years, with a start date of September 27th, 2021 to an expiry date of September 27th, 2041. Planning staff can recommend the approval of this application as it meets the intent of the applicable Provincial, Regional and Local planning policies.

ATTACHMENTS:

1. Site Sketch
2. Draft By-law
3. Authorizing By-law

Prepared & Submitted by:



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Approved by:



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