

DATE: Sept 22nd, 2021

REPORT NO: COA-032-21

SUBJECT: **Recommendation Report**
Application for Minor Variance by Clarice Djuikouo and Neil Wood
File No. A22/2021WL

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

OVERVIEW:

- A minor Variance application has been submitted by Clarice Djuikouo and Neil Wood for the property legally known as the Broken Front (BF) Concession, Part Lot 25, in the former Township of Gainsborough, now in the Township of West Lincoln, Region of Niagara. Municipally known as 679 Boyle Road.
- This Minor Variance application has been applied for to request a variance to permit the property owner to build a proposed dwelling on the property's existing footings.
- This variance requires a front yard setback of 7.33 metres (24.05 feet) whereas Table 12 of the Township's Zoning Bylaw 2017-70, as amended, identifies that an agricultural property can have a minimum front yard setback of 15 metres for a dwelling (49.21 feet).
- The current owners purchased the property with the previous dwelling already being removed and are now hoping to build their proposed single detached dwelling where the previous dwelling existed.
- In July 2020, the previous owners communicated with the Chief Building Officer about renovating their dwelling. At the time, a building permit was not required to demolish the dwelling as the purpose of the demolition was to renovate the dwelling and to construct an addition.
- The previous property owners were further informed that the Township would only support a total renovation of the dwelling at the property's insufficient front yard setback of 7.33 metres if engineered documentation was provided to indicate that the footings were still usable.
- A permit application for a renovation was never submitted to the Township by the previous owner, instead the previous owners sold their property.
- It is in the Township's opinion that this project should be looked at as a new dwelling based off the fact that the original owners who the agreement was with have moved on.
- This application has been reviewed against the four tests of a Minor Variance and can be recommended for approval if the existing footings being still usable.

RECOMMENDATION:

1. THAT, the application for a Minor Variance made by Clarice Djuikouo and Neil Wood as outlined in Report COA-032-21, to permit a single detached dwelling to be built on the footings of the previous building with a front yard setback of 7.33 metres, BE MODIFIED and BE APPROVED to permit a single detached dwelling to be built on the footings of the previous building with a front yard setback of 7.33 metres if documentation is provided by an engineer that concludes that the existing footings from the previous dwelling are still usable and do not require any modifications.

BACKGROUND:

The subject lands are situated on the east side of Boyle Road, south of Wiley Road and north of East Chippawa Road, being legally described as the Broken Front (BF) Concession, Part Lot 25, in the former Township of Gainsborough, now in the Township of West Lincoln, Regional Municipality of Niagara. The subject property is municipally known as 679 Boyle Road. (See attachment 1 for a site sketch)

The subject property is approximately 1.06 acre (0.43 hectares) in size. The property is designated as Good General Agricultural and is zoned Agricultural. The surrounding properties to 679 Boyle Road also share the same designation and zoning.

This Minor Variance application has been applied for to request a variance to permit the property owner to build a proposed dwelling on the property's existing footings. This variance requires a front yard setback of 7.33 metres (24.05 feet) whereas Table 12 of the Township's Zoning Bylaw 2017-70, as amended, identifies that an agricultural property can have a minimum front yard setback of 15 metres for a dwelling (49.21 feet). The current owners purchased the property with the previous dwelling already being removed and are now hoping to build their proposed single detached dwelling where the previous dwelling existed.

In July 2020, the previous owners communicated with the Chief Building Officer about renovating their dwelling. At the time, a building permit was not required to demolish the dwelling as the purpose of the demolition was to renovate the dwelling and to construct an addition. The previous property owners were further informed that the Township would only support a total renovation of the dwelling at the property's insufficient front yard setback of 7.33 metres if engineered documentation was provided to indicate that the footings were still usable. A permit application for a renovation was never submitted to the Township by the previous owner, instead the previous owners sold their property. It is in the Township's opinion that this project should be looked at as a new dwelling based off the fact that the original owners who the agreement was with have moved on. This application has been reviewed against the four tests of a Minor Variance and can be recommended for approval if the existing footings being still usable.

Staff require that the variance applies only to the existing footings and foundation. Any change in shape and dimensions should require full compliance with the zoning regulations.

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 designation 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 agricultural property in question is a small holding property as it is approximately 1.06 acres (0.43 hectares) in size.

This Minor Variance application has been applied for to request a variance to permit a property to build a proposed dwelling on the property's existing footings. This variance requires a front yard setback of 7.33 metres (24.05 feet) whereas Table 12 of the Township's Zoning Bylaw 2017-70, as amended, identifies that an agricultural property can have a minimum front yard setback of 15 metres for a dwelling (49.21 feet).

Township Planning Staff are of the opinion that the requested 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, and is 1.06 acres (0.43 hectares) in size. The Agricultural zone permits single detached dwellings and their associated accessory buildings. The proposed single detached dwelling is a permitted use under the regulations of the Agricultural Zone.

Under Table 12 of the Township's Zoning By-law 2017-70, as amended, it is indicated that the minimum front yard setback for a dwelling on an Agricultural zoned property is 15m. Currently this property does not have a single detached dwelling on the lot. The applicants have indicated that the previous dwelling was removed prior to them acquiring the lot on August 3, 2021. The footings from the previous dwelling remain on the property. The current owners are now wishing to have a dwelling rebuilt on the lot and are proposing to build the new dwelling on the existing footings that remain on the property.

As the rebuild is on the existing foundation, staff support the variance. The zoning allows for single detached dwellings and the property already has existing footings located with a setback of 7.33 metres (24.05 feet) to the front lot line, Township staff are of the opinion that this application meets the general intent of the Township Zoning Bylaw. Should the applicant deviate from the existing foundation, then full compliance with the bylaw should be achieved.

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

Yes

The applicant has proposed to construct a single detached dwelling on the property. The property is entitled to a single detached dwelling and previously had a dwelling prior to the current owners purchasing the property. The footings from the previous dwelling are still on the property and have a setback of 7.33 metres (24.05 feet). The current owners are now hoping to utilize these footings.

As a single detached dwelling having a setback of 7.33 metres (24.05 feet) is not new for this property and as the footings already exist for the property, 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 permit a proposed single detached dwelling to decrease the minimum front yard setback on the property. The applicants are asking to decrease the setback by over 50% (7.67 metres). However, Township Staff believe that this variance is minor because footings already exist with the requested 7.33 metre setback on the property and that the applicant is not requesting to further increase the degree to which the front yard setback will be diverting from the Township's Zoning By-law 2017-70, as amended.

As noted, that Township Staff only supports the requested variance if the existing foundation is buildable. Engineered documentation is required to be provided to the Building Department identifying that the existing footings are still usable. If it is determined by an engineer that the existing footing are not usable then the property owners will be required to be in full compliance with the Township's Zoning By-law.

FINANCIAL IMPLICATIONS:

There are no financial implications associated with this application.

INTER-DEPARTMENTAL COMMENTS:

Notification was mailed to all applicable agencies and departments on September 2nd, 2021. A yellow sign was also posted on the property a minimum of 10 days before the hearing.

The Niagara Peninsula Conservation Authority does not object to the proposed application.

The building department have identified the previous owners communicated with the Chief Building Officer about renovating their dwelling. At the time, a building permit was not required to demolish the dwelling as the purpose of the demolition was to renovate the dwelling and to construct an addition. The previous property owners were further informed that the Township would only support a total renovation of the dwelling at the property's insufficient front yard setback of 7.33 metres if engineered documentation was provided to indicate that the footings were still usable. A permit application for a

renovation was never submitted to the Township by the previous owner, instead the previous owners sold their property. A site visit was conducted on September 17, which found that the initially specified re-building plans were not constructed/ started. It is in the building department's opinion that this project should be looked at as a new dwelling based off the fact that the original owners who the agreement was with have moved on.

The Township's septic inspector and public works department both do not object to the proposed application.

PUBLIC COMMENTS:

Notification was mailed to all neighbouring properties within a 60m radius of the subject lands September 2nd, 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 Sept 20th, during the preparation of this report.

CONCLUSION:

A Minor Variance application has been submitted by Clarice Djuikouo and Neil Wood for the property municipally known as 679 Boyle Road. The Minor Variance application is submitted to permit the property owners to re-build a proposed dwelling on the property's existing footings. This variance requires a front yard setback of 7.33 metres (24.05 feet) whereas Table 12 of the Township's Zoning Bylaw 2017-70, as amended, identifies that an agricultural property can have a minimum front yard setback of 15 metres for a dwelling (49.21 feet). Planning staff are of the opinion that this application meets all four tests of a minor variance if the new house is built on the existing footings and that the existing footings are buildable.

ATTACHMENTS:

1. Site Sketch
2. Zoning Provisions
3. Comments

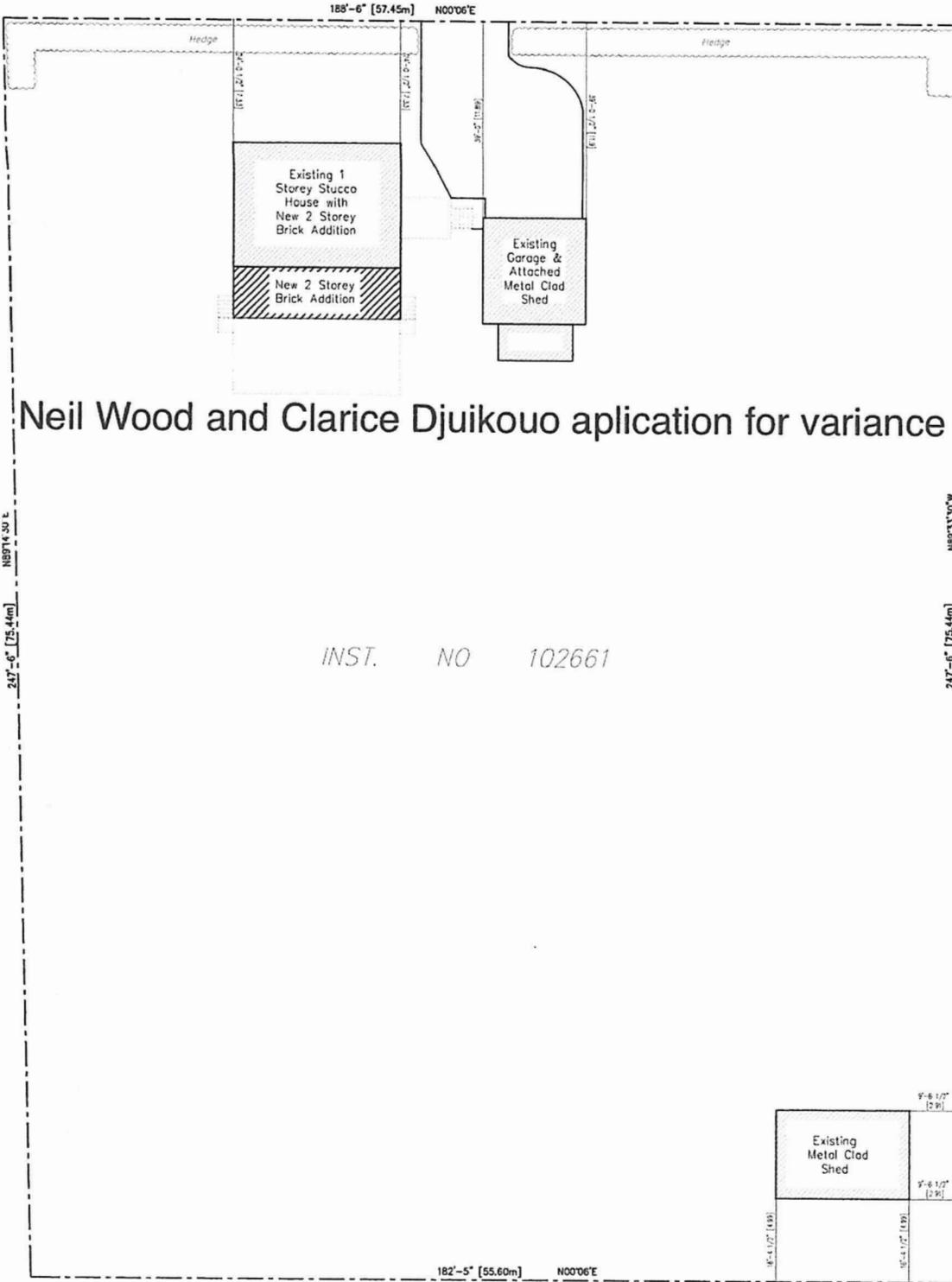
Prepared by:



Madyson Etzl
Planner II



Brian Treble, RPP, MCIP
Director of Planning and Building



SITE PLAN of
 INST. NO. 102661
 REGIONAL MUNICIPALITY
 OF NIAGARA, ONTARIO.
 -SEE SURVEY FOR MORE INFORMATION-

NOTE: ALL INFORMATION FOR THIS SITE PLAN WAS TAKEN FROM THE SURVEY DONE BY ROBERT S. FARM ON 10/10/19 AND SURVEYOR COMPLETED ON JUL 9, 2020. ALL DIMENSIONS AND BEARINGS MUST BE OBTAINED BY AN ON-CARD LAND SURVEYOR BEFORE ANY CONSTRUCTION CAN BEGIN.

zoning information for: 675 BOYLE ROAD, FENWICK, ONTARIO

zoning by-law: Residential - RD Zone (R200) AND RD ZONE (R200) (1998)

Max. Front yard setback	Min. Side yard setback	Min. Rear yard setback	Min. Height of Building	Min. Lot Coverage
10m	3m	10m	12m	25%

Neil Wood and Clarice Djuikouo application for variance

General Notes

Contractor(s) shall check and verify all measurements before commencement of any work and all discrepancies shall be reported immediately to the Engineer.

Plans and specifications are the property of the Engineer and must be returned upon completion of the work or upon request.

Plans are not to be scaled.

Drawings shall not be used for construction purposes unless counter signed by the Engineer.

The undersigned has reviewed and takes responsibility for this design and has the qualifications and meets the requirements set out in the Ontario Building Code to be a designer

QUALIFICATION & REGISTRATION INFORMATION

Required unless design is exempt under 2.17.5.1. of the building code

NAME	SIGNATURE	BCIN
PAUL KATCHUTAS		25137

**O.REG. 332/12
 SB-12 COMPLIANCE
 PACKAGE 'A1'**

CONSTRUCTION & TRUE NORTH

01	ISSUED FOR PERMIT	07/28/20
No.	Revision/Issue	Date

**SITE
 PLAN**

PROJECT

Private Residence
 679 BOYLE RD.,
 FENWICK, ONTARIO.

Project	Sheet
Date July 5, 2020.	SP1
Scale 1/16" = 1'	

PART 5. AGRICULTURAL ZONES

5.1 APPLICABLE ZONES

The permitted *uses* and regulations of Part 5 apply to land within the following *zones*:

Zone	Symbol
Agricultural <i>Zone</i>	A
Agricultural Purposes Only <i>Zone</i>	APO
Agriculture-Related <i>Zone</i>	AR

These *zones* apply to land identified with the corresponding *zone* symbol as shown in Schedule “A”.

5.2 PERMITTED USES

In the *zones* identified in Section 5.1, no *person* shall *use* or permit the *use* of any *lot* or *erect, alter* or *use* any *building* or *structure* for any purpose except in accordance with the permitted *uses* in Table 11.

Table 11: Permitted Uses in Agricultural Zones

Uses	Zones where Permitted		
	A	APO	AR
Principal Uses			
<i>Agricultural use</i>	A	APO	
<i>Agriculture-related use</i>			AR ⁽²⁾
<i>Agricultural service and supply establishment</i>			AR ⁽²⁾
<i>Commercial kennel</i> (see s. 3.8)			AR ⁽²⁾
<i>Contractors establishment</i>			AR ⁽²⁾
<i>Garden centre</i>			AR ⁽²⁾
<i>Pet care establishment</i> (see s. 3.8)			AR ⁽²⁾
<i>Private kennel</i> (see s. 3.8)			AR ⁽²⁾
<i>Service shop</i>			AR ⁽²⁾
<i>Single detached dwelling</i>	A		
<i>Veterinary clinic</i>			AR ⁽²⁾
<i>Wayside pit or quarry</i> (see s. 3.27)	A	APO	AR
Accessory Uses⁽¹⁾			
<i>Accessory buildings or structures and accessory uses</i> (see s. 3.1)	A ⁽¹⁾	APO ⁽¹⁾	AR ⁽¹⁾
<i>Accessory dwelling unit</i> (see s. 3.2)	A ⁽¹⁾		
<i>Accessory farm dwelling</i> (see s. 3.2)	A ⁽¹⁾		
<i>Garden suite</i> (see s. 3.2)	A ⁽¹⁾		
<i>Group home</i> (see s. 3.6)	A ⁽¹⁾		
<i>Home occupation</i> (see s. 3.7)	A ⁽¹⁾		
<i>On-farm diversified uses</i> (see s. 3.11), including:	A ⁽¹⁾		
<i>Agriculture-related use</i> (see s. 3.11)	A ⁽¹⁾		

Uses	Zones where Permitted		
	A ⁽¹⁾	APO ⁽¹⁾	AR ⁽¹⁾
<i>Agricultural service and supply establishment</i> (see s. 3.11)	A ⁽¹⁾		
<i>Agri-tourism / value-added use</i> (see s. 3.11)	A ⁽¹⁾		
<i>Bed and breakfast establishment</i> (see s. 3.4)	A ⁽¹⁾		
<i>Home industry</i> (see s. 3.7)	A ⁽¹⁾		
<i>Home occupation</i> (see s. 3.7)	A ⁽¹⁾		
<i>Pet care establishment</i> (see s. 3.8)	A ⁽¹⁾		
<i>Private kennel</i> (see s. 3.8)	A ⁽¹⁾		
<i>Service Shop</i> (see s. 3.11)	A ⁽¹⁾		
<i>Veterinary Clinic</i> (see s. 3.11)	A ⁽¹⁾		
<i>Outside display and sales area</i>			AR ⁽¹⁾
<i>Outside storage</i>	A ⁽¹⁾	APO ⁽¹⁾	AR ⁽¹⁾
<i>Pet care establishment</i> (see s. 3.8)	A ⁽¹⁾		
<i>Private kennel</i> (see s. 3.8)	A ⁽¹⁾		
<i>Renewable energy system</i> (see s. 3.15)	A ⁽¹⁾	APO ⁽¹⁾	AR ⁽¹⁾

(1) Denotes uses that are only permitted accessory to or in conjunction with a permitted *principal use*.

(2) These permitted *principal uses* in the AR Zone shall be directly related to *agricultural uses* in the area, require a location that is in close proximity to *agricultural uses*, and directly provide products and/or services to *agricultural uses* as the primary business.

5.3 REGULATIONS

In the *zones* identified in Section 5.1, no *person* shall *use* or permit the *use* of any *lot* or *erect, alter* or *use* any *building* or *structure* for any purpose except in accordance with the regulations in Table 12.

Table 12: Regulations for Permitted Uses in Agricultural Zones

Regulation		Zone Requirements		
		A	APO	AR
Minimum <i>lot area</i>		40 ha	39 ha	0.4 ha
Minimum <i>lot frontage</i>		100m		50m
Minimum <i>front yard</i>	<i>Dwelling</i>	15m	-	
	<i>Greenhouse</i>	30m		
	<i>Mushroom farm building</i>	150m ⁽¹⁾		-
	<i>Other main building</i>	20m		10m
Minimum <i>exterior side yard</i>	<i>Dwelling</i>	15m	-	-
	<i>Greenhouse</i>	30m		
	<i>Mushroom farm building</i>	150 m ⁽¹⁾		-
	<i>Other main building</i>	20m		10m
Minimum <i>interior side yard</i>	<i>Dwelling</i>	5m	-	-
	<i>Greenhouse</i>	15m ⁽²⁾		
	<i>Mushroom farm building</i>	75m ⁽¹⁾		-
	<i>Other main building</i>	15m	7.5m	

Attachment No. 2 to COA-032-21

Regulation		Zone Requirements		
		A	APO	AR
Minimum <i>rear yard</i>	<i>Dwelling</i>	15m	-	-
	<i>Greenhouse</i>	15m ⁽²⁾		
	Mushroom farm <i>building</i>	75m ⁽¹⁾		-
	Other <i>main building</i>	20m	7.5m	
Maximum <i>lot coverage</i>	<i>Greenhouses</i>	70%	40%	
	Other <i>buildings or structures</i>	10%		
Maximum <i>height</i>		15m	15m	
Minimum <i>landscaped open space</i>		No minimum	10%	
Maximum <i>outside storage</i>		5% of <i>lot area</i> ⁽³⁾	10% of <i>lot area</i> ⁽³⁾	

⁽¹⁾No *building* or *structure* used for the growing of mushrooms shall be located closer than 150 metres to the nearest main wall of a *dwelling* on a separate *lot* or any *street line*, and 300 metres to the nearest boundary of an Institutional *Zone* or a Residential *Zone* other than the Rural Residential *Zone*.

⁽²⁾The minimum *interior side yard* and *rear yard* for a *greenhouse* shall be 25 metres where one or more ventilating fans exhaust into the respective *yard*.

⁽³⁾*Outside storage* for purposes other than *outside display and sales areas* on the *lot* shall be located in a *rear yard* or *side yard* and screened from view from *public streets* and adjacent *lots*. No manure, compost or equipment storage area shall be permitted within 30 metres of a *street line* or a *lot line* of a separate *lot* that contains a *residential use* or the top of bank of a *municipal drain* or watercourse.

Meghan Birbeck

From: Nikolas Wensing <nwensing@npca.ca>
Sent: September 7, 2021 3:47 PM
To: Meghan Birbeck
Subject: Re: Sept 22nd West Lincoln Committee of Adjustment Notice of Hearing
Attachments: 7807 Concession Road 3, West Lincoln.pdf; 9758 Concession Road 5, West Lincoln.pdf

Hello Meghan,

Thank you for letting me know regarding the fee payment, I appreciate it.

Regarding the four application you have circulated to me, I have the following questions and/or comments thus far:

7807 Concession Road 3

- I note that on the application, it is noted that the proposed severance will be a lot addition. It is worded as though Parcel 2 will become a part of Parcel 1 as shown on the Severance Plan. Can you confirm that this is the case? The Severance Plan appears to indicate that Parcel 2 will be a standalone lot. I note that the proposed southern lot line for Parcel 2 bisects a Provincially Significant Wetland (PSW), and that it may bisect a Flood Hazard. The NPCA is not able to support lot creation within a PSW or Flood Hazard, however, the NPCA may be able to support a lot addition. Some further clarity regarding the proposed lot configuration is requested.

9758 Concession Road 5

- I note that the proposed cabana is located overtop of a mapped watercourse. I have included mapping which illustrates that a watercourse may be present (thin blue line shown on the mapping). However, the NPCA's aerial imagery seems to indicate that this Watercourse may no longer be present. At this time, the NPCA would like to request photos of the subject property where the cabana is proposed so that we may confirm whether a Watercourse is present.

679 Boyle Road

- The NPCA's regulated mapping does not indicate the presence of any NPCA regulated features or hazards on the subject property. As such, the NPCA will have no objections to the proposed dwelling.

3982 Concession Road 1

- The NPCA's regulated mapping does not indicate the presence of any NPCA regulated features or hazards on the subject property. As such, the NPCA will have no objections to the proposed storage building.
-

Sincerely,

Meghan Birbeck

From: John Bartol
Sent: September 17, 2021 3:05 PM
To: Meghan Birbeck
Cc: Brian Treble
Subject: 679 Boyle Road - To aid wit your report.

Hi Meghan,

As per our conversation this morning about the subject property I have taken pictures outlining what has been completed. As a bit of back ground, I believe this was being looked at as a renovation permit and an addition permit and they were granted approval to move forward with the demolition to start the (re-build). Based off of the work being done and the fact that the original owners who the agreement was with have moved on, it is in my opinion that the project should be looked at as a new dwelling. Please see the below pictures outlining the work that has been completed. Based off of the onsite visit it does not appear that what was specified in the plans was constructed/started. The existing and remaining foundation walls are visible in the pictures for reference, if you have any questions about any of the structural/building code requirements please don't hesitate to contact me directly.









Regards,

	John Bartol
	Building Inspector Tel: 905-957-3346 ext 5128 Email: jbartol@westlincoln.ca Web: www.westlincoln.ca 

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COVID 19 Update July 15, 2021 – As Ontario enters Step Three of the Roadmap to Reopen, the Township will continue to offer select services by appointment only. Full information available in the latest [press release](#). Staff are available to assist the public, Monday - Friday, 9:00 am - 4:30 pm by phone at 905-957-3346, or by email. The best source of information is our [website](#) where you can also find specific email address and phone extensions.



Application Number:	A22/2021WL
Date:	September 16, 2021
Property Address:	679 Boyle Road
Project:	A22/2021WL

Planning Staff,

No objection to the proposed application.

Be further advised that the right is reserved to make additional comment with regard to this application should any additional information be made available. Any further requests of this office should be directed to the undersigned.

Respectfully,

Lyle Killins, C.P.H.I.(c)
Part 8, O.B.C., Septic System Inspector Manager
Building and Bylaw Enforcement Services Department