

DATE: May 25th, 2022

REPORT NO: COA-015-22

SUBJECT: **Recommendation Report**
Application for Minor Variance by Mike Murray on behalf of Richard and Bonnie Kozarichuk
File No. A15/2022WL

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

OVERVIEW:

- A minor Variance application has been submitted by Mike Murray on behalf of Richard and Bonnie Kozarichuk for the property legally described as Concession 4, Part Lot 11, in the former Township of Gainsborough, now in the Township of West Lincoln, Region of Niagara. Municipally known as 1612 Regional Road 20.
- This Minor Variance application has been applied for to permit an accessory dwelling unit to be built 8 square metres (86.11 square feet) larger than permitted with a total size of 108 square metres (1,162.5 square feet) whereas Section 3.2.1 g) ii. of the Township's Zoning Bylaw 2017-70, as amended, identifies that the maximum size for an attached accessory dwelling unit is the lesser of 100 square metres or 40% of the floor area of the main building.
- The minor variance application has been reviewed against the four tests of a Minor Variance. Planning Staff recommend supporting and approving the requested variance, subject to a condition.

RECOMMENDATION:

1. THAT, the application for the Minor Variance made by Mike Murray on behalf of Richard and Bonnie Kozarichuk as outlined in Report COA-015-22, to permit an attached accessory dwelling unit to be built with a total size of 108 square metres, BE APPROVED, subject to the following condition:
 - a. THAT, the applicant is to provide the Township of West Lincoln 's Building Department with documentation from a licensed sewage system installer and/ or designer indicating compliance of the proposed application with the appropriate section of Part 8, Ontario Building Code.

BACKGROUND:

The subject lands are situated on the west side of Regional Road 20, north of Bismark Road/ Silver Street, and south of Concession Road 4, being legally described as Concession 4, Part Lot 11, in the former Township of Gainsborough, now in the Township of West Lincoln, Region of Niagara. The subject property is municipally known as 1612 Regional Road 20 (see attachment 1 for a site sketch).

The subject property is approximately 4.13 acres (1.67 hectares) in size. The property is designated as Good General Agricultural and the property is zoned Agricultural 'A'. The surrounding properties have similar designations and zonings.

In November 2021, a building permit was submitted for an accessory dwelling unit to be attached to the existing single detached dwelling unit at 1612 Regional Road 20. Planning staff indicated that the permit for the proposed accessory dwelling unit could not receive zoning clearance as the accessory dwelling unit's size was larger than permitted at 106 square metres. Further staff indicated that Section 3.2.1 g) ii. of the Township's Zoning Bylaw 2017-70, as amended, identifies that the maximum size for an attached accessory dwelling unit is the lesser of 100 square metres or 40% of the floor area of the main building.

Section 3.2.1 g) ii. of the Township's Zoning Bylaw 2017-70, as amended, identifies that for the purposes of this Subsection, the floor area shall include all area within a basement but shall not include a private garage or attic.

From reviewing the applicants survey Township Staff determined that the existing single detached dwelling (not including the garage) has a size of 170 square metres. Township Staff note that the existing single detached dwelling has a basement and believe that the floor area for subsection 3.2.1 g) ii. of the Township's Zoning Bylaw 2017-70, as amended, would then be 340 square metres - 40% of the existing dwelling would be 136 square metres.

During November and December, the agents of the property owner, worked to reconfigure the proposed accessory dwelling unit to be 100 square metres opposed to the desired size of 106 square metres. At the end of December 2021, the agent provided an updated drawing which showed the accessory dwelling unit to be less than 100 square metres and Planning Staff signed off on the permit on in January 2022.

Since January the property owners have decided that they indeed want the initial layout that they designed for their accessory dwelling unit and have decided to proceed with a minor variance.

In the justification letter that the applicants submitted with their minor variance application it explains that the accessory dwelling unit will be for the owners to move into and that the existing space will be used by their daughter and her family of four. The house will become a multi-generational home with the new area functioning as a space for the current owners to “age in place”. The justification letter also indicated that should mobility or health issues arise, or home nursing care be required the additional space will allow for greater accessibility for the accessory dwelling unit. The full justification letter can be found in the attachments.

The agent of the applicant is requesting an extra 2 square metres then what is currently require to ensure that if any measurements change slightly for technical reasons, following the minor variance possibly being granted, that the applicants will not have to reapply for a whole new variance.

This Minor Variance application has been applied for to permit an accessory dwelling unit to be built 8 square metres (86.11 square feet) larger then permitted with a total size of 108 square metres (1,162.5 square feet) whereas Section 3.2.1 g) ii. of the Township’s Zoning Bylaw 2017-70, as amended, identifies that the maximum size for an attached accessory dwelling unit is the lesser of 100 square metres or 40% of the floor area of the main building.

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. As well, agricultural main and agricultural accessory buildings are also permitted in Good General Agricultural areas. The subject property in question is approximately 4.13 acres (1.67 hectares) in size.

Section 17 of the Township’s Official Plan discusses Affordable Housing and in turn accessory dwelling units. The Official Plan indicates that the changing profile of the population of the Township, as well as the need to create more affordable housing requires the Township to provide the opportunity for alternative forms of housing.

The Official Plan lists the follow as general provisions for accessory apartments (accessory dwelling units):

- a) *Only one accessory apartment will be permitted per property, either in a dwelling or in an accessory building.*
 - The proposed accessory dwelling unit related to this minor variance application is the first and only accessory dwelling unit being proposed for this property.
- b) *The accessory apartment must be subordinate in size to the main dwelling.*
 - The applicant's proposal of an accessory dwelling unit of 108 square metres will be 31.8% of the size of the existing single detached dwelling.
- c) *The lot size and configuration are sufficient in size to accommodate parking and amenity areas and services.*
 - The property is a rural agricultural property that is approximately 4.13 acres (1.67 hectares) in size. The property's current driveway is also roughly 120 m in length.
- d) *Details regarding size and permitted zones will be outlined in the Township's Zoning By-law.*
 - The applicant's property is permitted to have an accessory dwelling unit subject to the Township's Zoning By-law 2017-70, as amended.
- e) *Where the main dwelling is serviced by a septic system and private potable water, verification must be provided that the septic system is capable of accommodating an additional dwelling unit and that there is adequate potable water to service both the accessory apartment and the main dwelling unit.*
 - The Township's Building and Septic Inspectors do not have an issue with the proposed accessory dwelling unit.
- f) *The accessory apartment shall not be severed from the property that contains the principal residence.*
 - The proposed accessory dwelling unit is to be built attached to the existing single detached dwelling and is not planned to be severed from the property.
- g) *A lot may not have both an accessory apartment and a garden suite.*
 - Currently the lot does not have either an accessory dwelling unit or a garden suite.

h) A zoning amendment is required to establish an accessory apartment in a townhouse dwelling.

- Not applicable for this property.

The Official Plan also has the following provisions for accessory apartments (accessory dwelling units) in dwellings:

a) Are permitted in all single, and semi-detached dwellings in the Township. A zoning amendment is required to establish an accessory apartment in a townhouse dwelling.

- The proposed accessory dwelling unit is to be attached to a single detached dwelling.

b) Must be directly attached to, or contained within, the main dwelling.

- The proposed accessory dwelling unit is to be attached to the single detached dwelling through the rear garage wall.

c) Must have a similar architecture and style to the main dwelling.

- Is proposed to be designed similarly to the existing dwelling and will be located away from the road to the rear of the dwelling.

d) Must comply will all zoning by-law regulations in terms of size, setbacks, height, etc.

- This minor variance application is required as the size is 8% greater taen permitted.

Township Planning Staff are of the opinion that the proposed minor variance meets the general intent and purpose of the Official Plan as an accessory dwelling unit is permitted on the subject property.

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

The subject land is zoned Agricultural 'A' under the Township's Zoning By-law 2017-70, as amended. The Agricultural zone permits single detached dwellings, accessory dwelling units, and accessory buildings.

The Zoning By-law lists the follow as regulations for accessory dwelling units:

a) Accessory dwelling units shall be located within a main building containing an existing principal use, or within a residential accessory building, on a lot where both the principal use and an accessory dwelling unit are permitted by the

applicable zone above the ground floor and remain a secondary use to the accessory building. (Bylaw 2018-61)

- The proposed accessory dwelling unit is proposed to be built as an addition to the rear of the property's existing single detached dwelling.
- b) *A maximum of one (1) accessory dwelling unit is permitted on a lot, except where permitted otherwise by the applicable zone.*
- The proposed accessory dwelling unit related to this minor variance application is the first and only accessory dwelling unit being proposed for this property.
- c) *Accessory dwelling units shall comply with the regulations of the applicable zone.*
- The proposed accessory dwelling unit complies with the regulations of the Agricultural 'A' zone, with regards to setbacks and lot coverage.
- d) *A main building that is used for an accessory dwelling unit shall comply with the regulations of the applicable zone.*
- The existing single detached dwelling that the accessory dwelling unit is proposed to be attached to complies with the regulations of the Agricultural 'A' zone.
- e) *On a lot that is not serviced by municipal sewage services and/or municipal water services, an accessory dwelling unit shall not be permitted unless the lot has a minimum lot area of 0.4 hectare and the private sewage services and/or private water services are approved for the lot with adequate capacity for the accessory dwelling unit and any other uses on the lot.*
- The proposed lot is greater than 0.4 hectares at a rough size of 4.13 acres (1.67 hectares). The Township's Septic Inspector has indicated that the application indicates the potential for a significant increase in daily sewage effluent treatment demand. Thus, to ensure Ontario Building Code (Part 8) compliance, it is suggested the following be considered by the Committee of Adjustment:
 - i. THAT, the applicant is to provide the Township of West Lincoln Building Department with documentation from a licensed sewage system installer and/or designer indicating compliance of the proposed application with the appropriate section of Part 8, Ontario Building Code.
- f) *Parking for accessory dwelling units shall be provided in accordance with Section 3.12.*

- The proposed parking for the accessory dwelling unit will be accommodated within the existing garage and on the existing driveway.
- g) Where permitted in a Residential Zone, or as an accessory use to a dwelling that is permitted as a principal use in any other zone, an accessory dwelling unit shall be in accordance with the following additional regulations:*
- i. An accessory dwelling unit shall be located within a single detached dwelling, semi-detached dwelling or an accessory building on the same lot as a single detached dwelling or semi-detached dwelling;*
 - The proposed accessory dwelling unit is proposed to be built as an addition to the rear of the property's existing single detached dwelling.
 - ii. An accessory dwelling unit shall have a minimum floor area of 40 square metres and a maximum floor area of the lesser of 100 square metres or 40% of the floor area of the main building. For the purposes of this Subsection, the floor area shall include all areas within a basement but shall not include a private garage or attic. (Bylaw 2018-61)*
 - This minor variance application is required as the size is 8% greater than permitted.
 - iii. An accessory building that is used for an accessory dwelling unit shall comply with the requirements of Section 3.1, except that the maximum height of an accessory building that contains an accessory dwelling unit above the first storey shall be 8 metres;*
 - Not applicable for this property.
 - iv. The residential appearance and character of the dwelling as a single detached dwelling or semidetached dwelling shall be maintained, and any separate entrance and exit for the accessory dwelling unit shall be oriented toward the exterior side lot line, interior side lot line, or rear lot line, and not located on the front façade of the dwelling. (By-law 2019-63)*
 - The character of the accessory dwelling unit will be maintained with the proposed accessory dwelling unit, and the entrance to the unit will be from within the existing garage.
 - v. An accessory dwelling unit shall not be permitted on a lot that is used for a bed and breakfast establishment, boarding or rooming house, garden suite or group home.*
 - Not applicable for this property.

- vi. *A home occupation shall not be permitted within the accessory dwelling unit.*
 - A home occupation is not proposed within the accessory dwelling unit.
- vii. *For the purposes of satisfying the required parking for an accessory dwelling unit, tandem parking shall be permitted within a permitted parking area or driveway, including a driveway in a required front yard that has a minimum depth of 6m.*
 - Parking is not proposed to be altered/ is not needed to be altered with the proposed accessory dwelling unit.
- viii. *Access to the required parking for the accessory dwelling unit shall be provided from the same driveway that provides access to the primary dwelling unit on the lot. (Bylaw 2018-61)*
 - Parking is not needed to be altered with the proposed accessory dwelling unit.
- h) *Where permitted in a Commercial Zone, an accessory dwelling unit is only permitted within the same building as a permitted art gallery, commercial school, dry cleaning/laundry depot, financial institution, office including a medical office, personal service shop, private club, restaurant, retail store, service shop or studio, and shall be located above the first storey of the commercial building.*
 - Not applicable for this property.

The applicants are requesting a variance so that a floor area of 108 square metres can be permitted. As mentioned the applicants believe that the extra 8 square metres would provide them an adequate amount of room for the aging parent to provide space should mobility or health issues arise, or home nursing care be required the additional space will allow for greater accessibility for the accessory dwelling unit. The agent of the applicant is requesting an extra 2 square metres than what is currently require to ensure that if any measurements change slightly for technical reasons, following the minor variance possibly being granted, that the applicants will not have to reapply for a whole new variance.

The Township Planning Staff are of the opinion that the requested minor variance relating to the size of the attached accessory dwelling unit does meets the general intent and purpose of the Township's Zoning Bylaw.

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

Yes

The applicant has proposed to construct a proposed attached accessory dwelling unit on the property. The proposed developments do not impact the maximum lot coverage of the property as the property is 4.13 acres (1.67 hectares) in size. The existing single detached dwelling is 114 metres from the front lot line and the proposed accessory dwelling unit is to be located to the rear of the existing dwelling. The single detached dwelling is already out of sight from the streetscape as there are several existing trees blocking the view of the dwelling from the road. As the existing single detached dwelling is out of sight from the road and the proposed accessory dwelling unit is to be located to the rear of the existing dwelling it as well will not be visible and is not expected to impact neighbouring properties.

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 applicants are proposing an accessory dwelling unit that is to be attached to the existing single detached dwelling. The accessory dwelling unit is proposed to be 6% larger than the Township's Zoning By-law 2017-70, as amended, permits, however the agent is requesting for an extra 8% in case technical issues arise in the construction process provided that the minor variance is granted. The applicants have indicated that the unit is to support the existing owners so that their daughter and her family can move into the existing single detached dwelling. Planning staff believe the extra 8% increase for the accessory dwelling unit is minor in nature as the property is substantial in size and can support the extra 8 square metres for the accessory dwelling unit.

FINANCIAL IMPLICATIONS:

There are no financial implications associated with this application.

INTER-DEPARTMENTAL COMMENTS:

Notification was mailed to all applicable agencies and departments on Friday May 6th, 2022. A yellow sign was also posted on the property a minimum of 10 days before the hearing.

The Township's Public Works Department has no objections for this application.

The Township's Septic Inspector has indicated that the application indicates the

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potential for a significant increase in daily sewage effluent treatment demand. Thus, to ensure Ontario Building Code (Part 8) compliance, it is suggested the following be considered by the Committee of Adjustment:

- THAT, the applicant is to provide the Township of West Lincoln Building Department documentation from a licensed sewage system installer and/or designer indicating compliance of the proposed application in the appropriate section of Part 8, Ontario Building Code.

The NPCA have indicated that there is a presence of a regulated Watercourse on the subject property. In addition, NPCA staff note that there may be Unevaluated Wetlands associated with the Watercourse on site near the southern edge of the subject property. NPCA staff note that the proposed addition will not fall within any NPCA regulated features, hazards, or their development buffers. As such, the NPCA will not object to the proposed addition or Minor Variance application.

Niagara Region have not yet commented on this application.

PUBLIC COMMENTS:

Notification was mailed to all neighbouring properties within a 60m radius of the subject lands on May 6th, 2022. 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 comments from the public were received at the time of writing this report.

CONCLUSION:

A Minor Variance application has been submitted by Mike Murray on behalf of Richard and Bonnie Kozarichuk for the property municipally known as 1612 Regional Road 20. The Minor Variance application is submitted to permit an attached accessory dwelling unit to be built up to 8 square metres larger than permitted. Planning staff are of the opinion that the requested variance meets the four tests of a minor variance and as such, can recommend approval, subject to an attached condition.

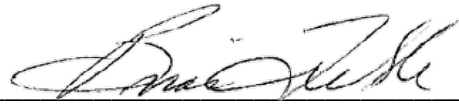
ATTACHMENTS:

1. Site Sketch
2. Justification Letter
3. Floor Layout Design
4. Comments

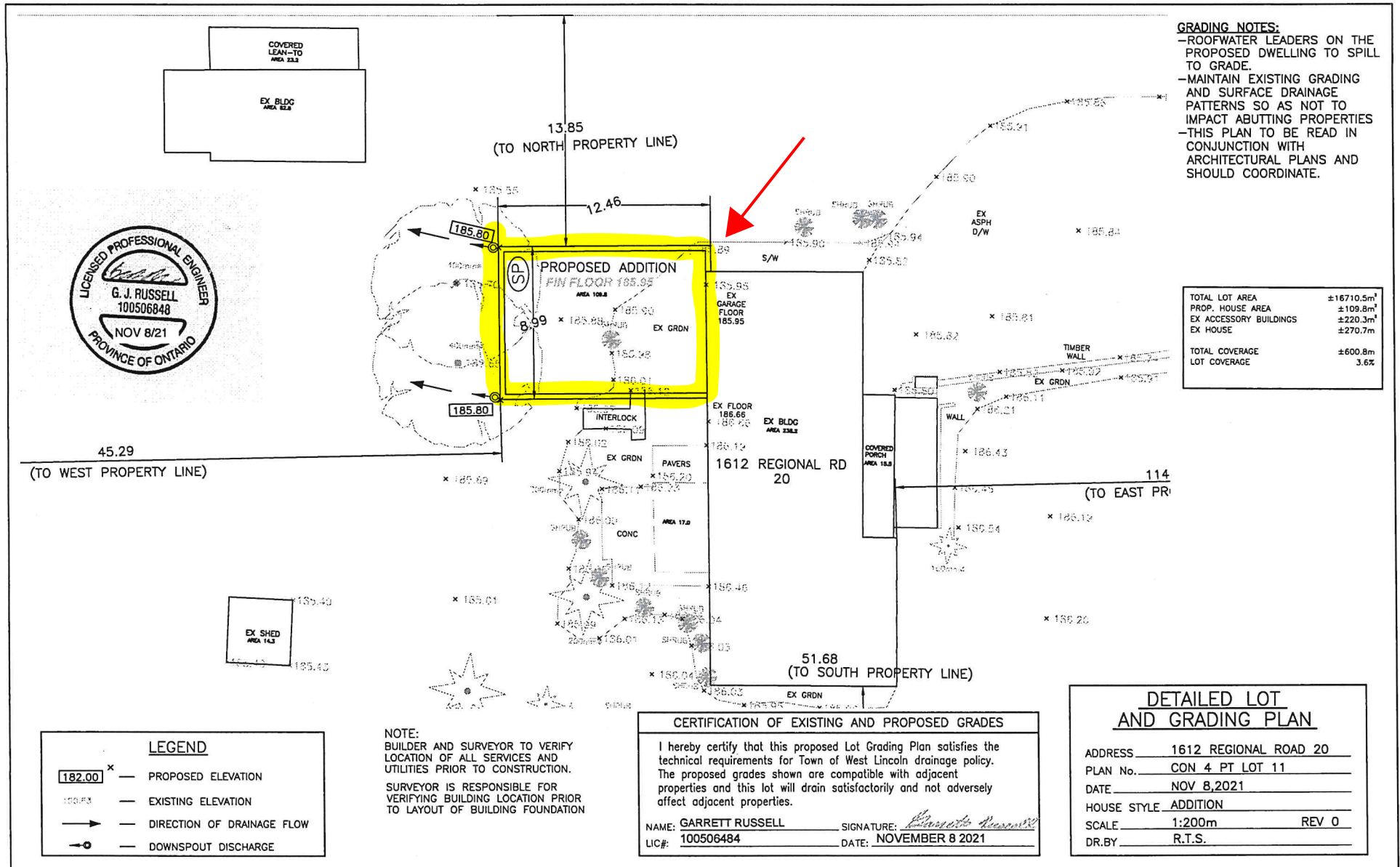
Prepared by:

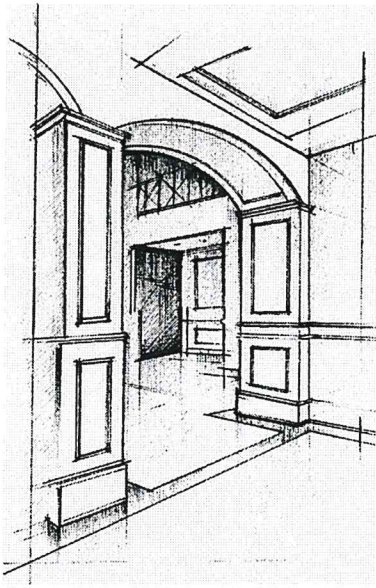


Madyson Etzl
Planner II



Brian Treble, RPP, MCIP
Director of Planning and Building





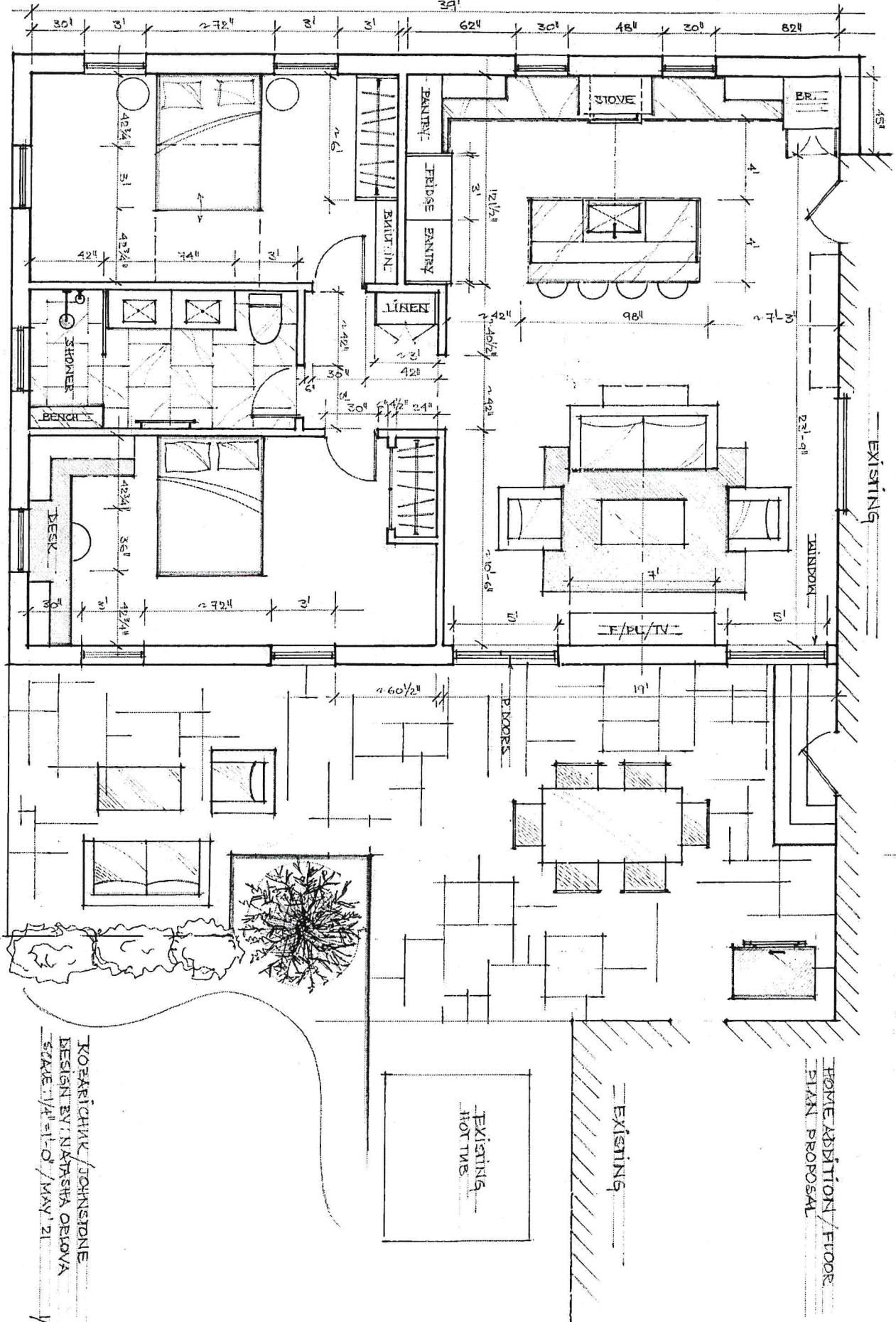
MURRAY REMODELLING SOLUTIONS

Rick and Bonnie Kozarichuk have lived in their home for over 40 years and have been a part of this community for much longer. The next chapter has their daughter, and her family of four, purchasing the property to create a multi-generational home to be shared and enjoyed.

The additional living space of 6 sm we have petitioned for, will provide Rick and Bonnie with space to pursue their favorite hobbies- sewing and furniture design. In the long term, it provides space for Rick and Bonnie to “age in place”. Should mobility or health issues arise, or in home nursing care be required, the additional space will allow for greater accessibility.

Multi-generational homes allow families to provide care for aging parents conveniently. They provide grandparents to play a day-to-day role in the lives of their children and grandchildren. It is more evident now than ever before that our traditional housing ideas are greatly challenged by an ever-changing world, and multi-generational families are the fastest growing household type in the country.

The Kozarichuk family looks forward to the creation of this new home for these three generations, and for generations to come.



КОЗАРЧИК / JOHNSTONE
DESIGN BY: NATASHA OLEVOVA
SCALE: 1/4" = 1'-0" / MAY '21

Meghan Birbeck

From: Nikolas Wensing <nwensing@npca.ca>
Sent: May 17, 2022 11:12 AM
To: Meghan Birbeck
Subject: NPCA Comments - May 25th Committee of Adjustment Meeting
Attachments: 1612 Highway 20, West Lincoln.pdf; 1639 Rosedene Road, West Lincoln.pdf

Hello Meghan,

NPCA staff have reviewed the three applications you had circulated for 1639 Rosedene Road, 1612 Regional Road 20, and 2790 Thompson Road. I can confirm that the NPCA will have no objections to any of these three applications - File Nos. A14/2022WL, A15/2022WL, A16/2022WL. The rationale for each application is included below.

A14/2022WL

- As per the attached NPCA regulated mapping NPCA staff note the presence of regulated Watercourses, Provincially Significant Wetlands (PSW), and Unevaluated Wetlands, and a Flood Hazard on the subject property.
- NPCA staff note that the proposed agricultural accessory structure will not fall within any NPCA regulated features, hazards, or their development buffers. As such, the NPCA will not object to the proposed structure of Minor Variance application.

A15/2022WL

- As per the attached NPCA regulated mapping, NPCA staff note the presence of a regulated Watercourse on the subject property. In addition, NPCA staff note that there may be Unevaluated Wetlands associated with the Watercourse on site near the southern edge of the subject property.
- NPCA staff note that the proposed addition will not fall within any NPCA regulated features, hazards, or their development buffers. As such, the NPCA will not object to the proposed addition or Minor Variance application.

A16/2022WL

- NPCA staff note that no features or hazards are present on the subject property. As such, the NPCA will have no objections to the proposed application.

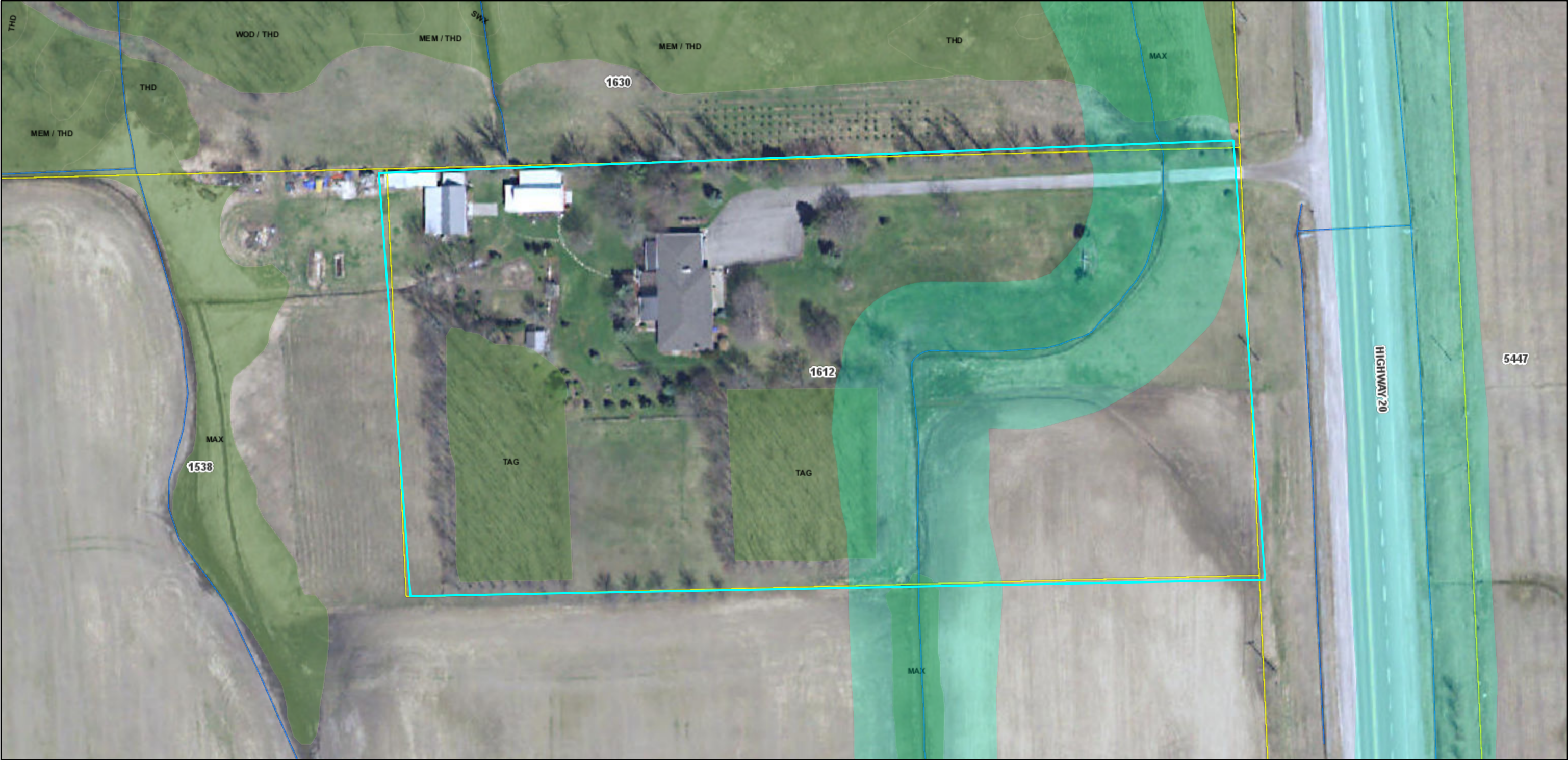
Sincerely,

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

1612 Highway 20, West Lincoln

Attachment No. 4 to COA 045-22



4/8/2021, 4:28:06 PM

Roads

Corporate Watershed Divide NPCA

NPCA APPROXIMATE REGULATION LANDS

Wetland Allowance

Regulation Wetlands

OWES WETLANDS

Non-Provincially Significant Wetland

Provincially Significant Wetland

Top of Slope Allowance

Top of Slope Features

Stable

Unstable

Reaches Draining 125ha Requiring FPM

Regulated

Regulated

Assessment Parcels

2K Hydrography

2K HydroPoly

Natural Areas (Large Scale)

0 0.01 0.01 0.03 mi

0 0.01 0.03 0.06 km

1:1,128

NPCA, Brian Lee, Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

Web AppBuilder for ArcGIS

City of Welland, Haldimand County, Niagara Region, Regional Municipality of Niagara, Province of Ontario, Ontario MNR, Esri Canada, Esri, HERE, Garmin, Natural Earth, USDA, AAFC, NRCAN | Brian Lee | NPCA | <https://www.ontario.ca/page/open-government-licence-ontario> |

Meghan Birbeck

From: Jennifer Bernard
Sent: May 9, 2022 3:03 PM
To: Meghan Birbeck
Subject: RE: Notice of Hearing to May 25th, COA meeting - West Lincoln

Hi Meghan,

I have no comments on these 3 minor variance applications.

Thanks,
Jenn



The information transmitted, including attachments, is intended only for the person(s) or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and destroy any copies of this information.

From: Meghan Birbeck
Sent: May 6, 2022 2:07 PM
To: Busnello, Pat <pat.busnello@niagararegion.ca>; Development Planning Applications <devtplanningapplications@niagararegion.ca>; Dunsmore, Susan <Susan.Dunsmore@niagararegion.ca>; Young, Katie <Katie.Young@niagararegion.ca>; Nikolas Wensing <nwensing@npca.ca>; Mike DiPaola <mdipaola@westlincoln.ca>; Jennifer Bernard <jbernard@westlincoln.ca>; John Schonewille <jschonewille@westlincoln.ca>; Jessica Kroes <jkroes@westlincoln.ca>; Lyle Killins <lkillins@live.com>; Gerrit Boerema <gboerema@westlincoln.ca>; Brian Treble <btreble@westlincoln.ca>; Madyson Etzl <metzl@westlincoln.ca>; Ray Vachon <rvachon@westlincoln.ca>
Subject: Notice of Hearing to May 25th, COA meeting - West Lincoln

Good afternoon,

Attached to this email are the 3 minor variance applications that are going to the May 25th Committee of Adjustment hearing.

1. A14/2022WL – Comfort - 1639 Rosedene Rd

Planning Application Review

Application Number:	A15/2022WL
Date:	May 13, 2022
Property Address:	1617 Regional Road 20
Project:	Kozarichuk

Planning Staff,

Please be advised the received information in regards to application relating to the functional capability of the existing Class 4 Sewage System has been reviewed. The application indicates the potential for a significant increase in daily sewage effluent treatment demand. Thus, to ensure Ontario Building Code (Part 8) compliance, it is suggested the following be considered by the Committee of Adjustment:

- 1) The applicant is to provide the Township of West Lincoln Building Department documentation from a licensed sewage system installer and/or designer indicating compliance of the proposed application in the appropriate section of Part 8, Ontario Building Code.

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