

DATE: March 6, 2023

REPORT NO: PD-16-2023

SUBJECT: **Recommendation Report - Zoning By-Law Amendment
(Temporary Use By-Law) - Kelly/Redekop Garden Suite
Application (File No. 1601-015-22)**

CONTACT: Gerrit Boerema, Senior Planner
Dave Heyworth, Manager of Planning

OVERVIEW:

- An application for a Temporary Use By-Law has been submitted by Ed and Cornelia Redekop and Jonathan and Loreen Kelly to permit a Garden Suite.
- The applicants are requesting to temporarily permit a mobile home on their daughter and son in-law's property located at 9275 Concession 5 Road.
- The subject property is approximately 3.5 hectares in size, is designated as Good General Agricultural lands in the Township's Official Plan, and zoned Agricultural 'A' in the Township's Zoning By-Law.
- The applicants are requesting authority to place a Garden Suite for a maximum of 20 years to allow the applicants to live close to their family members who reside on the property.
- The *Planning Act* also supports Garden Suites where permitted under Section 39.1(1), further it allows Council to require a Temporary Use Agreement between the persons residing in the Garden Suite and the Township.
- Section 39.1(3) of the *Planning Act* also allows the Council of a municipality to grant the temporary use of a Garden Suite for up to 20 years.
- In 2021, Council approved Official Plan Amendment #61 (By-law 2021-80), that updated the Township's Official Plan policy for Garden Suites by extending the permission period from 10 years to 20 years, to maintain consistency with the *Planning Act*.
- If the use is required for more than 20 years, the temporary use can be renewed on a 3-year basis, as needed.
- Garden Suites are not intended to be rental units and will be removed once no longer required by the family.
- A public meeting was held on February 13, 2023. No submissions were received from members of the public.
- Township Staff have completed a full review of the application and recommend support of the application as it is aligned with provincial, regional and local planning policy. If approved by Committee and Council, the applicants would be required to apply for, and enter into a temporary use agreement with the Township.

RECOMMENDATION:

1. That, Recommendation Report PD-16-2023, regarding “Zoning By-Law Amendment (Temporary Use By-Law) –Kelly/Redekop Garden Suite Application File No. 1601-015-22”, dated March 6 2023, be RECEIVED; and,
2. That, Section 34(17) of the Planning Act apply and that no further public meeting is required, and;
3. That, the application for Temporary Use Bylaw, File Number 1601-015-22, BE APPROVED, as found within Attachment 3, and that staff circulate the Notice of Decision in accordance with the Planning Act, and;
4. That, the Mayor and Clerk be authorized to enter into a temporary use agreement with the owners/applicants.

ALIGNMENT TO STRATEGIC PLAN:

Theme #3

- Strategic, Responsible Growth

BACKGROUND:

A Temporary Use application has been submitted by Ed and Cornelia Redekop to request the temporary use of a mobile home on their daughter and son in-law's property municipally known as 9275 Concession 5 Road. The applicants wish to move into the Garden Suite (mobile home) to live close to their family members who reside on the property. The Garden Suite being proposed is 100 square metres in size (13.64 metres by 7.32 metres) and will include one bedroom.

The temporary use provisions of the Planning Act and the Township's Official Plan permit garden suites on a temporary basis. The Township's Official Plan permits one accessory dwelling unit per property, either in a dwelling or in an accessory building such as a Garden Suite. Further, the Township's Zoning By-Law 2017-70, as amended, recognizes the maximum floor area permitted for a Garden Suite to be 100 square metres. As such, the applicants are proposing a mobile home that is compliant with the Planning Act, Township's Official Plan and Zoning By-Law 2017-70, as amended.

As a result of the Pre-Consultation meeting on December 1st 2022. The applicant's septic consultant is recommending that the applicants decommission the existing septic system and put in a whole new system that would sufficiently be able to support the 2 dwellings, the existing single detached dwelling on the property as well as the new mobile home.

Staff have completed the planning review of the application against the applicable provincial, regional and local planning policy and can recommend approval of the application.

CURRENT SITUATION:

Township Staff have reviewed and are providing the relevant Provincial, Regional and Local policy surrounding Garden Suites below:

Provincial Policy Statement (PPS)

Garden Suites are not referred to within the PPS, though there are general housing policies that support a range of house types within a municipality. Section 1.4.3 states that Planning authorities shall provide for an appropriate range and mix of housing options to meet the projected housing needs of current and future residents.

Additionally, it is the Planning Act that requires municipalities to include policies and regulations for garden suites. The Planning Act allows municipalities to pass by-laws that will permit a temporary garden suite on a property for no 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. Section 39.1 of the Planning Act allows Council to require a Temporary Use Agreement between the persons residing in the Garden Suite and the Township that deals with such matters as the installation, maintenance, removal of the garden suite as well as, the period of occupancy for those named within the agreement.

As such, the proposed Garden Suite meets the Planning Act’s definition as it is a mobile home that will be portable, permitted for a temporary period, and will be ancillary to the existing residential dwelling. The mobile home being purchased will be 13.64 metres by 7.32 metres and will have a floor area of 100 square metres.

However, the applicants will be required to update the existing septic system on the property to accommodate the new mobile home. The applicants have reached out to a septic consultant who is proposing a new septic system that can accommodate the two dwellings and will be decommissioning the old septic system on the property. The Township Septic Inspector has reviewed the proposed septic servicing plan and has no objections to the preliminary plan. A permit and full review will be required. The applicants will additionally be required to enter into an agreement with the Township to regulate occupancy, location of the unit and servicing.

A Place to Grow – Provincial Growth Plan (P2G)

Applications filed after June 16, 2006 must conform to the Provincial Growth Plan– A Place to Grow. Section 1.2.3 states that the P2G shall be read in conjunction with the PPS and other provincial plans as defined in the Planning Act. As the P2G does not refer specifically to Garden Suites, Section 2.2.6 of the P2G states that municipalities need to address housing needs in accordance with the provincial policies such as the PPS. As such, the Planning Act and the PPS will be the primary provincial policies that will apply for this application.

Greenbelt Plan

Applications must conform to the Greenbelt Plan if they fall within the designated Greenbelt Area provided in Schedule 1 of the Greenbelt Plan. Since the subject lands are outside the area designated in the Greenbelt Plan, the Planning Act and PPS will be the provincial policies that will apply in this case.

Regional Policy Plan (RPP)

Garden Suites are not specifically addressed in the RPP, instead the Region depends on the Municipal Official Plan and Zoning By-Law to provide the policies and regulations pertaining to Garden Suites. As such, the following Township policies and regulations will apply for the garden suite as outlined in the Official Plan and Zoning Bylaw.

Township of West Lincoln Official Plan (OP)

The Township OP provides the following 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.*

Planning staff have reviewed the application in relation to the above noted policies and can provide the following comments:

- i. The proposed garden suite must be removed after it has served its purpose or after the lapsing of the temporary use bylaw (if approved). As such, the use will be temporary in nature.
- ii. The property is 3.47 hectares (8.57 acres) in size. The existing buildings currently cover approximately 1.25% of the total lot area, and with the proposed garden suite will cover less than 2%.
- iii. The garden suite will not adversely impact the surrounding neighborhood.
- iv. The garden suite will be accessed by the existing driveway and on-site parking will be provided.
- v. The garden suite will not be placed in the front yard or in front of the existing dwelling as established by the Zoning By-law.
- vi. No additional access will be provided to the lot from a public road.
- vii. The Official Plan permits one accessory dwelling unit per property, either in a dwelling or in an accessory building, such as a garden suite like this application.
- viii. The subject lands are not currently capable of providing the required septic needs of the garden suite, however, there is room on the property to accommodate a new septic system.

As such, the applicants have proposed a whole new septic system that will be accommodating both of the dwellings. As well, the applicants have proposed an additional cistern to accommodate the garden suite.

- ix. *Minimum Distance Separation* has been reviewed and the garden suite unit is within compliance. There are no livestock barns within the vicinity of the proposed unit.
- x. The garden suite is proposed to be clustered in the same general area of the existing buildings on the property, including the main dwelling unit.

Township of West Lincoln Zoning By-Law (ZBL)

The subject property is zoned Agricultural 'A' in the Township's ZBL. This zone allows for predominantly agricultural uses and one single detached dwelling as well as, accessory agricultural uses and a maximum of one accessory dwelling unit.

The Agricultural zone also permits a garden suite on the property as an accessory residential use; subordinate to the main dwelling, and subject to the accessory building and garden suite regulations. As an accessory building, the location of the Garden Suite is subject to the setbacks outlined in Section 3.1 of the Township's Zoning Bylaw 2017-70, as amended, including the requirement to be located within 50 metres of the dwelling.

Additionally, the garden suite is subject to specific regulations as outlined in Section 3.2.4 of the Township's Zoning Bylaw 2017-70, as amended. The provisions permit a maximum of one garden suite on a lot, with a maximum floor area of 100 square metres, and must be accessed through the same driveway that provides access to the main dwelling.

The proposed garden suite will maintain the required maximum floor area of 100 square metres, be located within 50 metres of the dwelling, and will be accessed from the existing driveway. Further, the garden suite is proposed to be located north of the single detached dwelling and existing accessory building on the property, and will also be located approximately 100 metres from the front property line. From staffs' review, the garden suite meets the requirements of the zoning bylaw.

FINANCIAL IMPLICATIONS:

A \$5,000.00 security deposit will be obtained as part of this Temporary Use application. This will be held by the Township until the temporary structure is removed. This money is held as security to ensure the unit is removed after it is no longer needed or after the temporary use bylaw has expired.

Discussions with the Finance Department have also identified that the garden suite will be taxed as part of the property taxes for the period of time that the mobile home is on the property.

Further, there are potential implications associated with Bill 109, the *More Homes for Everyone Act, 2022*. Bill 109 requires municipalities, starting on July 1st, 2023, to provide fee refunds for planning act applications if decisions are not made within the required *Planning Act* timelines.

The timelines for approval and the associated fee return requirements are outlined in the below table, this will require Township Staff to prepare recommendations on a quicker timeline for Council's decisions. Council must make a decision within 90 days of the complete application or they will be required to provide a refund.

	Zoning and Official Plan Combined	Zoning Bylaw Amendment	Site Plan
No refund	Decision is made within 120 days	Decision is made within 90	Plans are approve within 60 days
50%	Decision made within 121-179 days	Decision made within 91-149 days	Plans are approved between 61-89 days
75%	Decision made within 180 – 239 days	Decision made within 150 – 209	Plans are approved 90 – 119 days
100%	Decision made 240 days and later	Decision made 210 days and later	Plans are approved 120 days and beyond

The current 2023 fee for a Temporary Use By-Law is \$3,640.00. Starting on July 1st, 2023, if a decision is not made within 90 days, the Township would be required to refund the applicants \$1,820, at 149 days, \$2,730.00 would be required, and after 209 days, the entire fee would be refunded to the applicants.

INTER-DEPARTMENTAL AND PUBLIC COMMENTS:

Notice of Public Meeting was circulated to all relevant agencies on January 6th 2023 and a public meeting was held on February 13, 2023. No public comments were submitted as part of the public consultation process. The Township Building Department and Septic Inspector has provided comments with regards to the proposed septic plan. They have no objection to the preliminary plan, however, note that a permit will be required for both the garden suite and septic system.

The NPCA also has no concerns with the proposed application as the subject property does not contain any NPCA regulated features. Though, they have noted that the northwest corner of the subject property contains part of the 15 metre regulated buffer associated with a regulated watercourse on the abutting properties.

Furthermore, the Niagara Region had no Regional comments to provide and as such, do not object to this application.

CONCLUSION:

An application for a temporary use bylaw to permit a garden suite has been submitted by Ed and Cornelia Redekop for the property located at 9275 Concession 5 Road. Staff have completed the planning review and can recommend support of the temporary use bylaw as the application meets the applicable provincial, regional and planning policy.

ATTACHMENTS:

1. Site Sketch
2. Septic System Site Plan
3. Draft By-Law
4. Draft Temporary Use Agreement

Prepared & Submitted by:

Approved by:



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