



# REPORT

TOWNSHIP

COMMITTEE OF ADJUSTMENT

**DATE:** June 28<sup>th</sup>, 2023  
**REPORT NO:** COA-011-23  
**FILE NO:** A07/2023WL  
**SUBJECT:** **Recommendation Report**  
Application for Minor Variance David and Maria Bartels  
**LOCATION:** 8690 Twenty Road Smithville, ON L0R 2A0  
**CONTACT:** Gerrit Boerema, Senior Planner

## OVERVIEW:

- A Minor Variance application has been submitted by David and Maria Bartels, property owners of 8690 Twenty Road.
- This Minor Variance application has been applied for to permit a proposed accessory building 57.60 metres from the existing dwelling, being 7.60 metres beyond the permitted distance of 50 metres (Table 1-1 Section 3.1 of the Township's Zoning Bylaw 2017-70, as amended).

## TOTAL VARIANCES: 1

- To permit an accessory building 7.60 metres beyond the permitted distance from the main building.

## RECOMMENDATION: Yes ☒ No ☐ Deferral ☐

THAT, the application for Minor Variance made by David and Maria Bartels as outlined in Report COA-011-23, to permit an accessory building to be located at a maximum distance of 57.60 metres from the dwelling, BE APPROVED, subject to the following condition:

1. A site visit by the NPCA to verify the regulated features on site and the proposed location of the accessory building and clearance from the NPCA prior to any works commencing on site, if required.

## BACKGROUND: Surrounding Land Uses and Natural Heritage

- 8690 Twenty Road is approximately 118.78 acres (48.07 hectares) in size.
- The subject property is situated North of Sixteen Road, West of Caistor Centre Road, and located on the South-side of Twenty Road.
- The subject property along with the surrounding land uses are designated in the Township's Official Plan as Good General Agricultural Lands.
- Portions of the subject lands are also designated as part of the Natural Heritage System in the Township's OP, effectively being located along Twenty Mile Creek and North Creek intersecting the property, and the forested portion of Significant Woodlands and Provincially Significant Wetlands. These features can be seen on the attached map but are not a factor of this application.
- Other Natural Heritage features present on the subject lands and neighbouring agricultural lands include fish habitat and floodplain.
- The surrounding lands appear to be actively farmed with a number of small rural residential properties.
- Both of these designations protect and maintain long-term agricultural and conservation use within the area.

## CURRENT SITUATION:

Planning Staff have completed an analysis of the proposed Minor Variance application and can provide the following evaluation:

## PLANNING ACT – FOUR TESTS

Respecting Our Roots, Realizing Our Future

The Ontario Planning Act provides that a minor variance must meet the following four tests to be considered minor and supportable.

**Does the proposal maintain the general intent and purpose of the Official Plan? Yes ☒ No ☐**

**Official Plan Designation: Good General Agricultural Lands & Natural Heritage System**

As the proposed accessory building is permitted as a small scale secondary use to the permitted dwelling on the property and there are no adverse impacts anticipated that could hinder the surrounding agricultural operations. Planning Staff believe the proposed minor variance application is minor in nature and does follow the general intent of the Township's OP, specifically recognized by Policy 4.2(c).

**Does the proposal maintain the general intent and purpose of the Zoning By-law? Yes ☒ No ☐**

**Current Zone(s): Agricultural 'A', Environmental Conservation 'EC' & Environmental Protection 'EP'**

Planning Staff consider the variance minor given the location on the site. Aside from this variance, the proposed accessory building complies with the zoning setbacks for a Type 3 Building in an Agricultural Zone 'A'. For these reasons, Planning Staff can consider the proposed location to be minor in nature as the requested variance is maintaining the general intent and purpose of the Township's Zoning By-law 2017-70, as amended.

**Is the proposal desirable for the appropriate development or use of the land? Yes ☒ No ☐**

Planning Staff considers the proposal desirable for the appropriate development and use of land as the proposed location is within close proximity to the existing barn which locates the accessory building near the same cluster of buildings on the subject property and maintains the overall intent of the maximum distance provision of the Zoning By-law.

**Is the proposal minor in nature? Yes ☒ No ☐**

The proposed variance can be considered minor in nature as the accessory building is still maintaining the intent of the Township's OP and Zoning By-law, being that the accessory building is small in scale and permitted accessory to the existing dwelling. There are also no adverse affects anticipated with the proposed development, as noted above. For these main reasons, Planning Staff believe the proposal is minor in nature.

**FINANCIAL IMPLICATIONS:**

There are no financial implications associated with this report.

**INTER-DEPARTMENTAL COMMENTS:**

Building Department	No comments received, as such no objections.
Septic System Inspector	No comments received, as such no objections.
Public Works	No objections or comments to provide.
Niagara Peninsula Conservation Authority (NPCA)	Do not object to the accessory building being located at a distance of 57.60 metres from the existing dwelling, however, as it is unclear if the accessory building is outside the NPCA's regulated area. Technical Staff require a site visit. A condition of approval has been included to satisfy this concern. Please see Attachment 3 for more information.
Niagara Region	Offer no objections and are satisfied that the proposed minor variance application is consistent with the PPS and conforms with Provincial and Regional plans. Please see Attachment 3 for the full comments received.

**PUBLIC COMMENTS: Yes ☐ No ☒**

No public comments received at this time.

**CONCLUSION:**

Based on the above analysis, Planning Staff recommend APPROVAL of the proposed minor variance application (A07/2023WL) as outlined in Report COA-011-23, to permit an accessory building to be located 7.60 metres farther than permitted at a total distance of 57.60 metres from the main building, being the existing dwelling on the property.

**Attachments:**

1. Location Map
2. Site Plan
3. Agency Comments

**Prepared by:**



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**Gerrit Boerema, RPP, MCIP**  
**Senior Planner**



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**Dave Heyworth, RPP, MCIP**  
**Manager of Planning**







**Location Map**  
**8690 Twenty Road**

0 100 200 400 Meters

**West Lincoln**  
Your Future Naturally

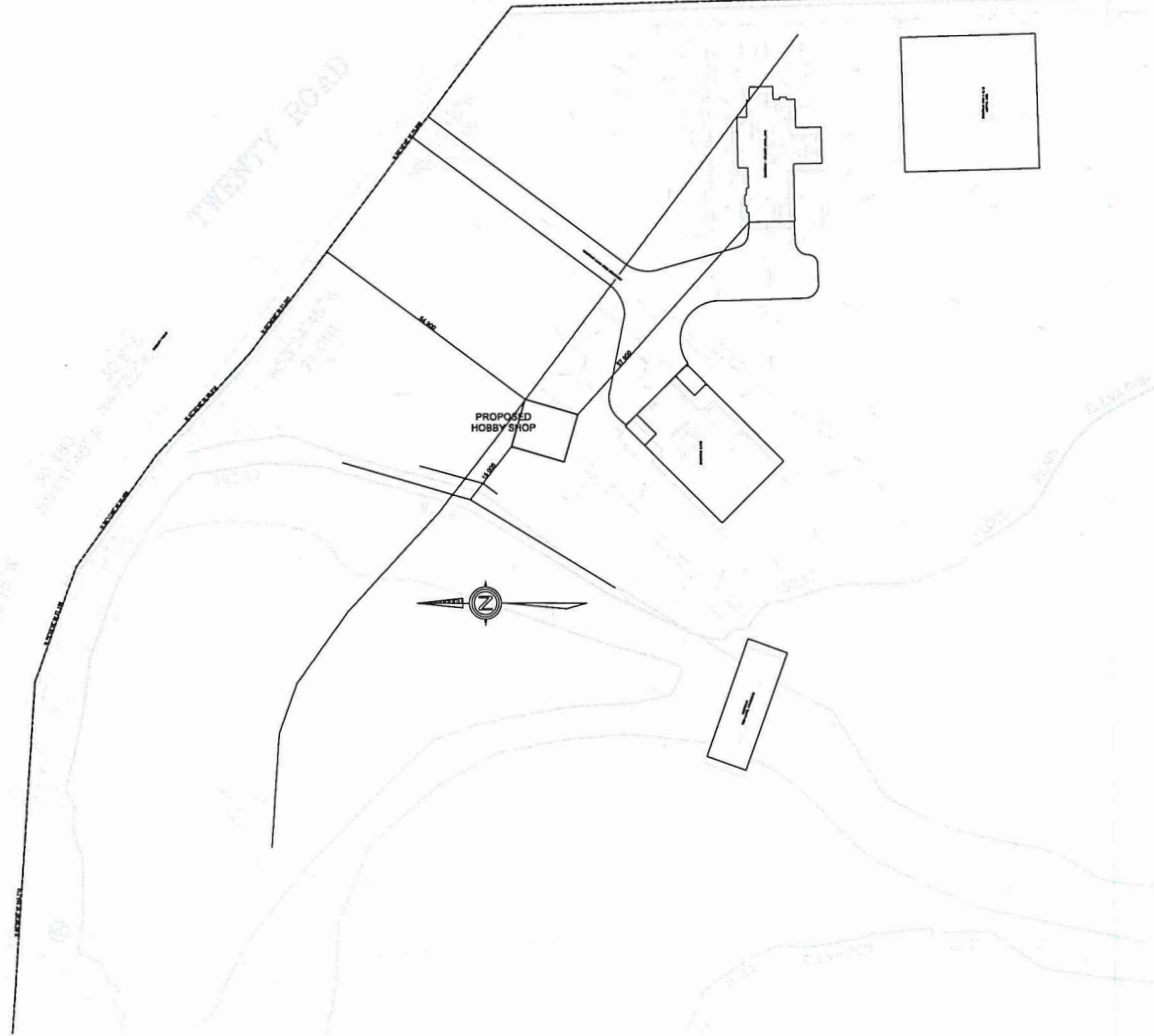
**Legend**

-  Zone Boundary
-  Subject Property



# Attachment 2 to COA-011-2023

**SITE PLAN**  
SCALE: 1:500



THESE DRAWINGS  
MUST BE SIGNED  
TO BE VALID FOR  
PERMIT.  
THEY ARE VALID  
ONLY FOR THE  
ORIGINAL ADDRESS  
IN THE TITLE BLOCK



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: Architectural Technologist  
Required: Ontario Design is exempt under  
Division C-2.2.1.1 of the 2010 O.B.C.  
Firm Name: Vanderwoerd Drafting & Design  
BCIN: 21611

John Vanderwoerd BCIN 21611  
800-767-1010 (toll-free)  
Required: Ontario Design is exempt under  
Division C-2.2.1.1 of the 2010 O.B.C.  
Firm Name: Vanderwoerd Drafting & Design  
BCIN: 21611

**VANDERWOERD**  
DRAFTING & DESIGN

John Vanderwoerd, M.A.A.T.O.  
34 Duke Street, Arthur, Ontario N0G 1A0  
www.home-design-bd.ca  
519-648-2128

Dave Bartels  
8620 Twenty Road  
Smithville, On

DRAWN BY:  
**JOHN VANDERWOERD,**  
M.A.A.T.O. BCIN: 21611

PROJECT:  
**Hobby Shop**

DRAWING TITLE:  
**SITE PLAN**

STARTING DATE:  
**June 29, 2022**

DRAWING #:  
**22-112**

SCALE:  
**1:500**

LAST REVISION DATE:  
**Apr 25, 2023**

PAGE #:  
**1 of 1**

THESE DRAWINGS ARE THE PROPERTY OF VANDERWOERD DRAFTING & DESIGN. ALL DIMENSIONS TO BE VERIFIED BY THE CONTRACTOR AND ANY DISCREPANCIES TO BE REPORTED IMMEDIATELY TO THE DESIGNER. WE WILL NOT BE RESPONSIBLE FOR COSTLY MISTAKES OR OMISSIONS MADE BY THE USER WITHOUT WRITTEN AUTHORIZATION FROM VANDERWOERD DRAFTING & DESIGN.



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905.788.3135 | [info@npca.ca](mailto:info@npca.ca) | [npca.ca](http://npca.ca)

June 26, 2023

Via Email Only

Stephanie Pouliot, Planner I  
Township of West Lincoln  
318 Canborough St,  
Smithville, ON L0R 2A0

**Subject: Minor Variance Information**  
**8690 Twenty Rd**  
**ARN: 260201000236405**  
**Township of West Lincoln**  
**Town File: A07/2023WL**  
**NPCA File: PLMV202300742**

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Good afternoon Stephanie,

The Niagara Peninsula Conservation Authority (NPCA) has reviewed the Minor Variance application package from the Township of West Lincoln regarding 8690 Twenty Rd (ARN: 260201000236405) for the hearing on June 28, 2023. The application is being made for a proposed variance, which is required to permit the location of a proposed accessory building.

### **NPCA Policies**

The NPCA regulates watercourses, flood plains (up to the 100-year flood level), Great Lakes shorelines, hazardous land, valleylands, and wetlands under *Ontario Regulation 155/06 of the Conservation Authorities Act*. The *NPCA Policy Document: Policies for Planning and Development in the Watersheds of the Niagara Peninsula Conservation Authority* (NPCA policies) provides direction for managing NPCA regulated features.

The subject property contains the following regulated features: A watercourse (Twenty Mile Creek), a possible flood hazard, an erosion hazard, and a Provincially Significant Wetland (Lower Twenty Mile Creek Wetland Complex) and 30 metre buffers as well as possible unevaluated wetlands.

The NPCA does not object to the proposed accessory building being located a distance of 57.6 metres from the existing dwelling. However, The NPCA cannot offer support at

this time to the proposed location as identified on the Site Plan prepared by John Vanderwoerd last revised on Apr 25, 2023. From the NPCA's review of the Site Plan, staff is not confident that the proposed accessory building is outside of the NPCA's regulated area.

Accessory structures and buildings may be supported within a flood hazard subject to several conditions. Of importance include:

- There is no reasonable alternative location outside of the flood plain on the site;
- The accessory structure does not contain any dwelling units;
- The accessory structure will not negatively impact the flood plain; and
- All openings on the ground floor of the building are to be located above the regulatory flood elevation.

Accessory structures and buildings are not permitted within an unevaluated wetland or its associated buffer. NPCA staff would require a site visit to evaluate the proposed location of the accessory building in relation to the property's possible unevaluated wetland.

The NPCA does not permit development to extend beyond the physical top of slope. Accessory buildings are required to be setback 7.5 metres from the stable top of slope. The location of stable top of slope will need to be established by an expert (such as a Geotechnical Engineer), to the satisfaction of the NPCA. A site visit by NPCA Staff to indicate Physical Top of Slope will need to be scheduled. The NPCA would be required to review a Grade Plans and any associated reports through the appropriate process. Development and site alteration is also not permitted beyond stable, or physical top of slope whichever is more restrictive. Silt Erosion Control Fencing is required to be installed and around the area of work of the proposed accessory building. The fencing is required to ensure that nothing gets into the possible unevaluated wetland or watercourse.

Concentrated flows of water are not permissive beyond top of slope. Concentrated flows include pipes and swales (any flow that collects water into an area). The NPCA also does not allow works on the slope, including maintenance. However, the NPCA does allow sheet flows over the slope - i.e., uncontrolled rear yard flows.

It appears the proposed works are located outside of the Provincially Significant Wetland and associated buffers; however, it is not clear at this moment that the proposed accessory building is outside of the possible flood hazard, erosion hazard, or possible unevaluated wetland. As such these features need to be verified on site. Technical staff require a site visit to verify features on the subject property prior to being able to provide support for the location as identified in the proposed Site Plan. NPCA staff recommend that the application be DEFFERED, until NPCA staff can assess the site and are satisfied



250 Thorold Rd 3rd Floor, Welland, ON L3C 3W2  
905.788.3135 | [info@npca.ca](mailto:info@npca.ca) | [npca.ca](http://npca.ca)

that all works are not impacted by the hazards and regulated features on the subject property.

Any works in the proposed location will be required to be circulated to the NPCA for a possible NPCA permit before any construction can occur.

Please advise the proponent that the NPCA Review Fees is subject to the Fees Schedule in effect at the time of an application. Currently, the fee for a minor variance is \$678.00. It should also be noted that there will be a fee for the NPCA Work Permit that will be required for any works within the feature, if necessary, for this project.

I trust the above will be of assistance to you. Should you have any further questions or require further information in this matter, please do not hesitate to call.

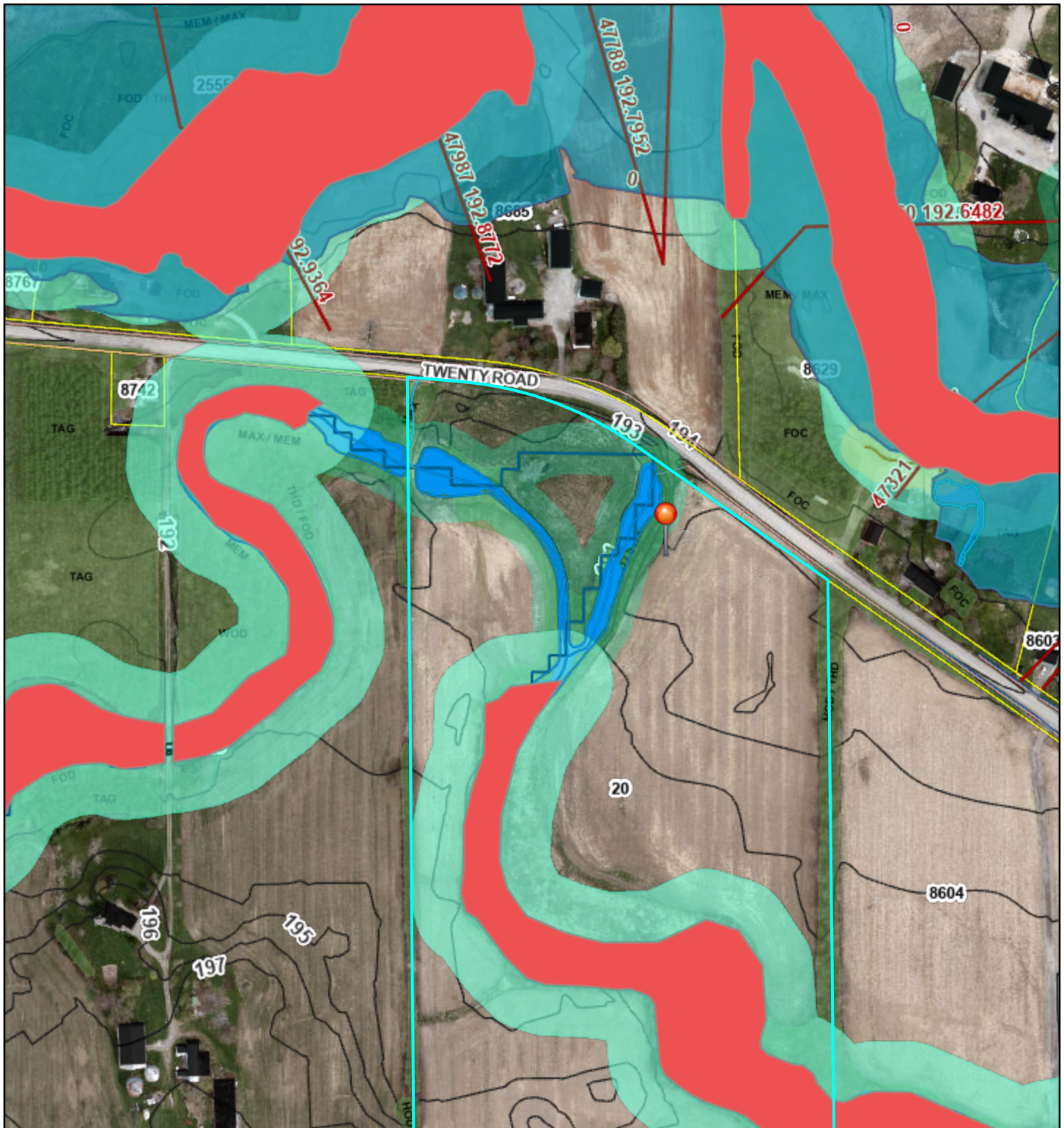
I hope this information is helpful.

Yours truly,

Meghan Birbeck  
Watershed Planner  
(905) 788-3135, ext. 278  
[mbirbeck@npca.ca](mailto:mbirbeck@npca.ca)



# Regulated Land Map - 8690 Twenty Road



6/26/2023, 2:59:37 PM

1:4,514

LIO Wetlands DRAFT

Evaluated-Provincial

SWOOP 2020 NPCA

Red: Band\_1

Green: Band\_2

Blue: Band\_3



Override 1

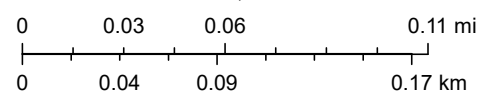
Roads

NPCA APPROXIMATE REGULATION LANDS

SHORELINES Enhance Local Feature Type Shoreline

Bridge/Overpass

Pond - Other



NPCA, 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 Hamilton, City of Welland, Haldimand County, Niagara Region, Regional Municipality of Niagara, Province of Ontario, Ontario MNR, Esri Canada, Esri, HERE, Garmin, INCREMENT P, USGS,

## Stephanie Pouliot

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**From:** Young, Katie <Katie.Young@niagararegion.ca>  
**Sent:** June 26, 2023 1:40 PM  
**To:** Stephanie Pouliot  
**Cc:** Development Planning Applications; Karlewicz, Lori  
**Subject:** Regional Comments - 8690 Twenty Road, WL (Township File: A07/2023WL; Region File: MV-23-0033)

Hello Stephanie,

Regional staff has reviewed the proposed Minor Variance application at 8690 Twenty Road, which proposes to permit an accessory building further from the main building than permitted in the Township's Zoning By-law 2017-70, as amended.

The property is mapped as 'Prime Agricultural Area' in the *Provincial Policy Statement, 2020* ("PPS"), *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 Consolidation* ("Growth Plan"), and the *Niagara Official Plan, 2022* ("NOP"). Prime Agricultural Areas are to be protected over the long term for a full range of agricultural uses and normal farm practices, as well as agriculture-related uses and on-farm diversified uses. The NOP permits accessory structures so long as new municipal services are not required, the proposal will not expand into key natural heritage features and key hydrologic features, unless there is no alternative, in which case, shall be limited in scope and kept within close geographical proximity to existing structures, the proposal will not result in the intrusion of new incompatible uses, and is in accordance with the minimum distance separation ("MDS") formulae.

Staff acknowledge that the accessory building will be located within the general vicinity of newly constructed structures on the property, which are on private services. Township staff should be satisfied that MDS requirements have been met. Subject to the below comments, staff offer no objection to the proposed structure.

### Archaeological Potential

The PPS and the NOP provide direction for the conservation of significant cultural heritage and archaeological resources. Specifically, PPS policy 2.6.2 and NOP policy 6.4.2.1 state that development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved or the land has been investigated and cleared or mitigated following clearance from the Province.

The property is mapped within Schedule K of the NOP as an area of archaeological potential. NOP Policy 6.4.2.6 states that where a site proposed for development is located within an area of archaeological potential, a Stage 1 Archaeological Assessment by a licensed archaeologist is required. Given the minor nature of the proposed variance, staff offer no archaeological assessment requirements. In lieu of an assessment, the following warning clauses are provided should any resources be uncovered through construction works:

*"Should deeply buried archaeological remains/resources be found during construction activities, all activities impacting archaeological resources must cease immediately, and the proponent must notify the Archaeology Programs Unit of the Ministry of Citizenship and Multiculturalism (416-212-8886) and contact a licensed archaeologist to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists."*

*In the event that human remains are encountered during construction, all activities must cease immediately and the local police as well as the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-326-8800) must be contacted. In situations where human remains are associated with*

*archaeological resources, the MCM should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the Ontario Heritage Act.”*

### **Natural Environment System**

The subject property is impacted by the Region's Natural Environment System ("NES"), consisting of Provincially Significant Wetland ("PSW") and a Permanent or Intermittent Watercourse. The portion of the property where the accessory building is proposed is mapped as part of the Provincial Natural Heritage System ("PNHS"). As such, these features are considered Key Natural Heritage Features ("KNHF") and Key Hydrologic Features ("KHF").

The PSW is separated from the proposed accessory building by the existing dwelling. Additionally, a site visit conducted by Regional staff on May 3, 2023 indicated that there is no watercourse present adjacent to the proposed accessory building. As such, Regional Environmental Planning staff offer no requirements or objection to the minor variance.

In conclusion, staff are satisfied that the proposal to permit an accessory structure on the property is consistent with the PPS and conforms to Provincial and Regional plans.

If you have any questions, please let me know.

Kind regards,

**Katie Young**, MSc (PI), MCIP, RPP

**Development Planner**

Development Planning

Growth Strategy and Economic Development

Niagara Region | [www.niagararegion.ca](http://www.niagararegion.ca)

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7

P: 905-980-6000 ext. 3727 Toll-free: 1-800-263-7215

E: [katie.young@niagararegion.ca](mailto:katie.young@niagararegion.ca)

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