

**DATE:** February 12, 2024

**REPORT NO:** PD-06-2024

**SUBJECT:** **Application for Temporary Use Zoning By-Law Amendment for 8399 Concession 2 Road**

**CONTACT:** Madyson Etzl, Senior Planner

**OVERVIEW:**

- An application for a Temporary Use By-Law has been submitted by James Smith (agent) on behalf of Breanne Griffin (Owner) for the property located at 8399 Concession 2 Road, to permit a Garden Suite.
- The applicants are requesting to temporarily permit a mobile home for use as a Garden Suite on their property. Refer to Attachment 1 – Location Map.
- The subject property is approximately 0.40 hectares in size and is designated as Good General Agriculture in the Township's Official Plan and as Rural Residential 'RUR' in the Township's Zoning By-law.
- The applicants are requesting authority to place a Garden Suite temporarily for a maximum of 20 years to allow two family members to live on the property in a separate dwelling unit.
- The *Planning Act* under Section 39.1(1), permits Garden Suites subject to requirements, and as a condition Council requires a Temporary Use Agreement between the persons residing in the Garden Suite with 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.
- 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 shall only be occupied by the person(s) named in the Temporary Use Agreement. The Garden suite is required to be removed once no longer required by the family.
- Township Staff have completed a thorough review of the application and in consideration that no comments have been received by the public and no major concerns from the agencies, the Recommendation Report is being presented concurrently for Committee and Council's consideration for approval.
- From the date of the complete application, being January 11<sup>th</sup>, 2024, 90 days would result in a decision having to be made by April 11, 2024.

**RECOMMENDATION:**

1. That, Recommendation Report PD-06-2024, regarding "Application for Temporary Use Zoning By-Law Amendment", dated February 12, 2024 be received; and,
2. That a bylaw, such as the Draft By-law attached in Schedule B, be approved; and,

3. That, the Director of Planning and Building be authorized to enter into a Temporary Use Agreement with the owners; and,
4. That, no further public meeting is required for the consideration of this by-law in accordance with Section 34(17) of the *Planning Act*.

**ALIGNMENT TO STRATEGIC PLAN:**

**Theme 2 & 3**

Champion – Strategic, Responsible Growth

Enrich – Strong Agricultural Legacy

**BACKGROUND:**

The purpose of this report is to provide the technical information for the Temporary Use Zoning By-law Application to Council as well as a recommendation on the application. The Recommendation Report is being presented to Council the same evening as the Public Meeting as there have been no public comments received at the time of writing this report and the application generally seems to be straight forward in nature. The proposal complies with the Township, Regional and Provincial Policies and presenting a recommendation report the same evening as the public meeting will assist in meeting the new timelines outlined in Bill 109.

A Temporary Use application has been submitted by James Smith (Agent) on behalf of Breanne Griffin (property owner) to request the temporary use of a mobile home on the property municipally known as 8399 Concession 2 Road. This application is to temporarily permit the Garden Suite to allow immediate family members of Breanne Griffin to temporarily reside on the property. The Garden Suite being proposed is 53.5 square metres in size (approximately 3.66 metres by 14.63 metres or 53.5 square metres/576 square feet).

The temporary use provisions of the Planning Act, Section 39.1(1) and the Township's Official Plan permit Garden Suites on a temporary basis. The Township's Official Plan permits one accessory dwelling unit per privately serviced property, either in a dwelling or a separate accessory building. Further, the Township's Zoning By-Law 2017-70, as amended, allows a maximum floor area permitted for a Garden Suite to be 100 square metres (1,076 square feet). 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.

**CURRENT SITUATION:**

Township Staff have reviewed the relevant Provincial, Regional and Local policy surrounding Garden Suites and have provided a summary below:

**1. Planning Act, Provincial Policy Statement (PPS) & A Place to Grow – Provincial Growth Plan**

Garden Suites are not referred to within the PPS, although 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 14.63 metres by 3.66 metres and will have a floor area of 53.5 square metres/576 square feet. The applicants are proposing to use the existing septic system on the property to accommodate the new modular home.

The Growth Plan does not refer specifically to Garden Suites, although Section 2.2.6 states that municipalities need to address housing needs

Planning staff consider the application for a temporary Garden Suite to be consistent with the Planning Act, Provincial Policy Statement (PPS) and Growth Plan.

### **3. 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 policies do not apply to this application.

### **4. Niagara Regional Official Plan (NOP)**

Garden Suites are not specifically addressed in the NOP, instead the Region relies on the municipal official plan policies and zoning by-Laws 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 OP and ZBL.

### **5. Township of West Lincoln Official Plan (OP)**

The subject property is designated as Good General Agriculture within the Township’s Official Plan. Within the Township OP (Section 4) 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 neighborhood 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 the proposed garden suite is a mobile home which will be easily removed following its use, the use is temporary in nature.
- ii. The property is 0.40 hectares (1 acre) in size.
- iii. The Garden Suite will not adversely impact the surrounding neighborhood (due to the fact that it is located within close proximity to the existing dwelling and is surrounded by agricultural lands.
- iv. The Garden Suite will be accessed by the existing driveway, slightly expanded, 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. OP permits one accessory dwelling unit per property, either in a dwelling or in an accessory building, such as a Garden Suite like this application. The applicant has not indicated any additional accessory dwelling units.
- viii. The proposed dwelling will hook into the existing septic system located on the property or require a separate septic bed. Both options are permitted in the Township's Zoning Bylaw.
- ix. Minimum Distance Separation has been reviewed and the Garden Suite unit is within compliance. There are no operating livestock barns within the immediate surrounding area.
- x. The Garden Suite is proposed to be located in the same general area of the existing buildings on the property, including the main dwelling unit.

Planning staff consider that the continued residential use and the use of a temporary Garden Suite on the subject property meets the intent of the Township's Official Plan. The applicant will be required to enter into a temporary use agreement with the Township to ensure that a deposit of \$5,000 is also provided for the removal of the unit, as well as regulate parking, servicing and location of the unit.

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

The subject property is zoned Rural Residential 'RUR' in the Township's ZBL. This zone allows for single detached dwellings and residential accessory uses and a maximum of one accessory dwelling unit.

The Rural Residential zone permits a Garden Suite on the property as an accessory residential use; subordinate to the main dwelling. 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. The proposed Garden Suite meets all zoning provisions as outlined in the table below.

Regulation	Required Setbacks	Proposed Setbacks
Interior side lot line setback	1.2 metres	2.4 metres
Interior side lot line setback	1.2 metres	33.42 metres
Rear lot line setback	1.2 metres	9.42 metres
Minimum setback form main building	1.5 metres	45.7 metres
Minimum Setback to front lot line	No closer to the front lot line than the main building	Located in the rear yard.
Maximum Lot Coverage	The lot coverage shall not exceed the 8% for all buildings and structures	3.3% total lot coverage with dwelling and garden suite
Maximum number of accessory buildings	2	2

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 (1,076 square feet), and must be accessed through the same driveway that provides access to the main dwelling.

The location of the proposed garden suite will be located to the north east corner of the property. North of the existing dwelling. (Please see attachment 1 for Survey Sketch) As such, the proposed Garden Suite will maintain the required maximum floor area of being only 53.5 square metres (576 square feet), and 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 to the north/ east of the single detached dwelling and existing accessory building on the property, and will also be located behind the main dwelling. Planning Staff consider that the application for a Zoning By-law Amendment to permit a Temporary Garden Suite conforms to the primary objectives of the Rural Residential Zoning regulations on the subject property.

### 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 use is removed after it is no longer needed.

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 1<sup>st</sup>, 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 decision. Council must make a decision within 90 days of the complete application or they will be required to provide a refund.

	<b>Zoning and Official Plan Combined</b>	<b>Zoning By-law Amendment</b>	<b>Site Plan</b>
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 2024 fee for a Temporary Use By-Law is \$3,822.00. Starting on July 1<sup>st</sup>, 2023, if a decision is not made within 90 days, the Township would be required to refund the applicants \$1,911.00, at 149 days \$2,866.50, and after 209 days, the entire fee would be refunded to the applicants.

Staff believe that this application for a Temporary Use for a Garden Suite does not create negative adverse impacts to the surrounding agricultural lands or the neighbouring residential parcels and approval of this application can be granted within the 90-day timeframe and no refund to the applicant will be required.

#### **INTER-DEPARTMENTAL COMMENTS:**

Notice of Public Meeting was circulated to all relevant agencies on January 11<sup>th</sup> 2024. At the time of writing this report, the Township's Building Department has yet to provide comments on the application.

The Township's Septic System Inspector provided comments which state that the existing septic system may not be adequate to service the additional garden suite. The applicant shall address requirements of Part 8 of the Ontario Building Code and request confirmation from a licensed installer and or designer as part of the required temporary



use agreement and building permit process. The potential increase in loading may be such that a new sewage system may be required to service the proposed garden suite, which would be permitted under the Township's zoning bylaw.

The Township's Public Works Department have reviewed the proposed application and have no objections.

The NPCA provided comments which stated they have no concerns for the proposed garden suite.

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

**PUBLIC COMMENTS:**

A Notice of Public Meeting was circulated to all residents within a 120 metre radius of the property on January 11<sup>th</sup>, 2024. The notice was posted to the Township's website and a yellow sign was also posted on the subject property on January 12<sup>th</sup> 2024.

Furthermore, at the time of writing this report, no public comments have been received to date.

**CONCLUSION:**

This application for a Temporary Use By-law has been reviewed in accordance with Section 34 of the Planning Act, and against Provincial, Regional and Township Policy, and the application has been deemed to meet the policies for the temporary use of a Garden Suite. As such, Planning Staff recommend the approval of the Zoning By-law application.

**SCHEDULES:**

- A. Site Plan
- B. Draft By-Law

**Prepared & Submitted by:**



**Approved by:**



---

**Brian Treble**  
**Director of Planning & Building**

---

**Donna DeFillipis**  
**CAO**



---

**Madyson Etzl**  
**Senior Planner**



---

**Gerrit Boerema**  
**Manager of Planning**