

**DATE:** July 15, 2024

**REPORT NO:** PD-31-2024

**SUBJECT:** **Technical Report - Zoning By-Law Amendment (Temporary Use By-Law) Frank and Janna Bulk, Garden Suite Application – 4961 Canborough Road- File No. 1601-006-24**

**CONTACT:** Madyson Etzl, Senior Planner  
Gerrit Boerema, Manager of Planning

**OVERVIEW:**

- An application for a Temporary Use By-Law has been submitted by Frank and Janna Bulk to permit a Garden Suite.
- The applicants are requesting to temporarily permit a modular home on their property located at 4961 Canborough Road. Refer to Attachment 1 – Location Map.
- The subject property is approximately 0.96 hectares (2.36 acres) in size and is designated as Natural Heritage System and within the Hamlet Settlement Area of Wellandport in the Township’s Official Plan.
- The property is zoned Environmental Protection ‘EP’ Environmental Conservation ‘EC’ and Residential Low Density ‘R1A’ in the Township’s Zoning By-law. The Garden Suite is proposed within the ‘R1A’ zone.
- The applicants are requesting permission to place a Garden Suite temporarily for a maximum of 20 years to allow the applicants to live close to their family members whom reside on the property.
- The *Planning Act* under Section 39.1(1), Garden Suites can be permitted by Council as a temporary use for up to 20 years. As a condition of approval, Council requires the owners to enter into a Temporary Use Agreement.
- At the time of writing this report, Planning staff have not received any public comments.

**RECOMMENDATION:**

1. That, Technical Report PD-31-2024, titled “Technical Report – Application for Zoning By-Law Amendment (Temporary Use By-Law) – Frank and Janna Bulk, Garden Suite Application File No. 1601-006-24” dated July 15<sup>th</sup> 2024, be received; and,
2. That, a recommendation report be submitted to a future

Planning/Building/Environmental Committee meeting once a full staff and agency review has been completed.

**ALIGNMENT TO STRATEGIC PLAN:**

**Theme 2 & 3**

- Champion – Strategic, Responsible Growth
- Enrich – Strong Agricultural Legacy

**BACKGROUND:**

The purpose of this report is to provide technical information to Committee and Council for the Temporary Use Zoning By-law Application submitted by Frank and Janna Bulk to request the temporary use of a modular home on the property known municipally as 4961 Canborough Road. The Garden Suite being proposed is 67.6 square metres (728 square feet) in size approximately 4.2 metres wide by 15.8 metres long.

The temporary use provisions of the Planning Act, Section 39.1(1) and the Township's Official Plan (Section 18.4) permit Garden Suites on a temporary basis. The Township's Official Plan permits one accessory dwelling unit on privately serviced properties. Further, the Township's Zoning By-Law 2017-70, as amended, (Section 3.2.4) recognizes the maximum floor area permitted for a Garden Suite to be 100 square metres (1,076 square feet). As such, the applicants are proposing a modular home that is aligned 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 April 4<sup>th</sup> 2024, Planning Staff recommended a private servicing plan. This plan will ensure that the existing single detached dwelling and the proposed garden suite unit can be serviced appropriately. Staff have been informed that the Building Department received a septic application from Mike Parsons of Dirty Deeds Contracting Inc. on May 24<sup>th</sup> 2024 to repair the existing septic system and to include a new second septic bed in the backyard. The existing septic bed is currently located in the front yard. The septic permit and building permit can be issued once the zoning amendment and temporary use agreement is complete.

**CURRENT SITUATION:**

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

**1. 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 that has been purchased is 67.6 square metres (728 square feet) in size, approximately 4.2 metres wide by 15.8 metres long. 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 has proposed a new septic system that can accommodate the two dwellings.

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

## **2. A Place to Grow – Provincial Growth Plan**

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

## **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 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.

Section 4H in the Niagara Regional Official Plan speaks to Hamlets within the Niagara Region, and provide growth management policies for Hamlets for housing, social, cultural, and economic opportunities to support the hamlet community and agricultural and rural communities in Niagara Region.

Section 11 of the Niagara Official Plan states that the region supports and encourages a variety of housing types within the municipalities to serve a variety of people as they age through the life cycle and encourages municipalities to adopt these policies through their Official Plans and Zoning By-laws.

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

The subject property is designated as within the Hamlet Settlement area of Wellandport and Natural Heritage System within the Township's Official Plan. Section 4 of the Township's Official Plan 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 such, the use will be temporary in nature.
- ii. The property is 0.96 hectares (2.36 acres) in size and still provides adequate outdoor amenity area.
- 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 shop and complies with all the required setbacks of an accessory building within the Low density residential 'R1A' zone.
- 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. It is setback 31.7 metres from the front lot line, which is the same as the existing dwelling front yard setback.
- vi. No additional access will be provided to the lot from a public road.
- vii. The Townships 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 new septic system and bed in the rear yard that will be accommodating both of the dwellings.
  - ix. Minimum Distance Separation has been reviewed and the Garden Suite unit is within compliance.

Planning staff consider 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.

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

The subject property is zoned Environmental Protection ‘EP’ Environmental Conservation ‘EC’ and Residential Low Density ‘R1A’ in the Townships Zoning By-law. The low density residential zone allows for a single detached dwelling, accessory buildings, and a maximum of one accessory dwelling unit.

The Low Density Residential zone ‘R1A’ 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.

<b>Regulation</b>	<b>Required Setbacks</b>	<b>Proposed Setbacks</b>
Interior side lot line setback	1.2 metres	1.2 metres
Interior side lot line setback	1.2 metres	35.00 metres
Rear lot line setback	1.2 metres	162.2 metres
Minimum setback form main building	1.5 metres	3.3 metres
Minimum Setback to front lot line	31.7 metre No closer to the front lot line than the main building	31.7 meter Located in the Side yard behind the front wall of main building
Maximum Lot Coverage	The lot coverage shall not exceed the 8% for all buildings and structures	2% total lot coverage with dwelling and garden suite
Maximum number of accessory buildings	2	1

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 outside of the Environmental

Protection Zone on the subject property. The Environmental Protection zone is located towards the north of the property. The location of the proposed garden suite has been evaluated by Niagara Peninsula Conservation Authority Technical Staff and they have no concerns with the proposed location of the Garden Suite.

As such, the proposed Garden Suite will maintain the required maximum floor area of being only 67.6 square metres (728 square feet), and will be accessed from the existing driveway. Further, the Garden Suite is proposed to be located to the west of the single detached dwelling on the property, and will also be located approximately 31.7 metres from the front property line. Planning Staff consider the application for a Zoning By-law Amendment to permit a Temporary Garden Suite conforms to the primary objectives of the Residential and Environmental Protection 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 at the end of the 20-year period or when the trailer is no longer needed. 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 assessed by MPAC (Municipal Property Assessment Corporation) and will then be included as part of the property taxes charged for the period of time that the mobile home is on the property.

**INTER-DEPARTMENTAL COMMENTS:**

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

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

The NPCA requested a review fee of \$1,695.00 on June 24<sup>th</sup> to further evaluate the subject lands and the proposed garden suite to determine if the proposed garden suite would be located outside of the evaluated wetlands that exist on the property. After technical staff did a further review it was determined that based on NPCA's terrain mapping the NPCA does not have a flooding concern with the location of the proposed garden suite. NPCA does note that the floodplain layer on our mapping is a screening tool, and a detailed survey may be required to establish the floodplain, in the future. In this case the NPCA's terrain, contours, and hatching all show the structure outside the floodplain and will not require a topographic survey.

As such the NPCA does not have an objection to File No. 1601-006-24 and will not require a work permit for the garden suite. Should any future development be proposed on the subject property NPCA review and approval will be required.

The Niagara Region provided comments which state that staff of the Growth Strategy and Economic Development Department does not object to the proposal and is satisfied that the proposal is consistent with the Provincial Policy Statement, and is in conformity to Provincial plans and the Niagara Official Plan, subject to any local considerations, including private servicing.

**PUBLIC COMMENTS:**

A Notice of Public Meeting was circulated to all residents within a 120 metre radius of the property on June 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 June 14<sup>th</sup> 2024.

Planning staff have received no public comments relating to the proposed application at the time of writing this report.

**CONCLUSION:**

Township staff have completed a preliminary review of this application against the applicable planning policy. Township staff believe that the garden suite can be permitted subject to changing the zoning on the subject property to include a site specific provision which will permit the garden suite for 20 years. The new zone will be Residential Low Density with a site specific provision.

A future staff report will provide a recommendation to Planning/Building/Environmental Committee for this application following input received through the public meeting process.

**Attachments:**

1. Location Map
2. Site Sketch
3. Septic System Site Plan
4. Agency Comments

**Prepared & Submitted by:**

**Approved by:**



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

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