

DATE: August 12, 2024

REPORT NO: PD-34-2024

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

CONTACT: Madyson Etzl, Senior Planner
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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 low density residential ‘R1A’ zone.
- The applicants are requesting permission to place a Garden Suite temporarily for a maximum period of 20 years to allow the applicants to live close to their family members whom own and 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, Recommendation Report PD-34-24, titled “Recommendation Report – Application for Zoning By-Law Amendment (Temporary Use By-Law) –Frank and Janna Bulk, Darren Fousert, Garden Suite Application File No. 1601-006-24”, dated August 12th 2024, be

received; and,

2. That, no further public meeting is required for the consideration of this by-law in accordance with Section 34(17) of the Planning Act; and,
3. That By-law 2024-54, as found in Schedule 'E' be approved with the site specific regulations.

ALIGNMENT TO STRATEGIC PLAN:

Theme 2 & 3

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

BACKGROUND:

The purpose of this report is to provide a recommendation to Committee and Council for the Temporary Use Zoning By-law Application submitted by Frank and Janna Bulk and Darren Fousert, to request the temporary use of a garden suite 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 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 Township Zoning By-Law 2017-70.

Based on the review of the application against the applicable planning policies and regulations, Administration is recommending support of this application.

CURRENT SITUATION:

Administration has reviewed and is providing the relevant Provincial, Regional and Local policy surrounding garden suites below:

1. Provincial Policy Statement (PPS) and Planning Act

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.

Legislation and regulations for garden suites can be found within the Planning Act. 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. The agreement 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 have already submitted a building permit for a new septic system to accommodate the proposed unit.

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 as the Region relies on the municipal official plan 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 Official Plan and Zoning Bylaw.

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.

As such, Administration is of the view that this application conforms to the intent of the Niagara Official Plan.

5. Township of West Lincoln Official Plan (OP)

The subject property is designated as 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.*

Administration provides the following comments 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 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 like this application.
- viii. The applicants have applied for a septic permit to construct a new septic system on the property that will service the garden suite.
- ix. Minimum Distance Separation (MDS) has been reviewed and the garden suite unit is exempt from MDS as it falls within the Hamlet Settlement Boundary.

Administration considers 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 Township’s 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.

Regulation	Required Setbacks	Proposed Setbacks
Interior side lot line setback	1.2 metres	1.2 metres
Interior side lot line setback	1.2 metres	35.0 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. Administration supports the application for a Zoning By-law Amendment to permit a temporary garden suite as it 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.

Administration has 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 11th 2024. At the time of writing this report, the Township's Public Works Department, the Region of Niagara and the Conservation Authority have reviewed the proposed application and have no objections.

The Township's Building Department and Septic Inspector are currently working with the applicant on a building and septic permit submission.

PUBLIC COMMENTS:

A Notice of Public Meeting was circulated to all residents within a 120 metre radius of the property on June 11th 2024. The notice was posted to the Township's website and a yellow sign was also posted on the subject property on June 14th 2024.

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

CONCLUSION:

Administration has completed a review of this application against the applicable planning policy. Administration recommends Council supports the proposed garden suite being permitted for a period of 20 years as it meets the applicable planning policy and requirements. The new zone will be Residential Low Density with temporary use provision and a site specific provision. Administration recommends approval of the Zoning Bylaw application.

Attachments:

1. Schedule A - Location Map
2. Schedule B - Site Sketch
3. Schedule C - Septic System Site Plan
4. Schedule D - Agency Comments
5. Schedule E- Draft Bylaw

Prepared & Submitted by:

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