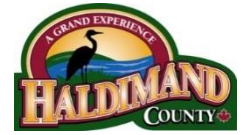

HALDIMAND COUNTY

Report PED-PD-30-2018 Zoning Amendment to Permit the Extension of a Garden Suite–VanKuren



For Consideration by Council in Committee on August 28, 2018

OBJECTIVE:

To consider an extension to a temporary use by-law to allow a garden suite to be located on the subject lands as a second dwelling unit for an additional three years.

RECOMMENDATIONS:

1. THAT Report PED-PD-30-2018 Zoning Amendment to Permit the Extension of a Garden Suite–VanKuren be received;
2. AND THAT application PLZ-HA-2018-103 to pass a temporary use by-law for a period of three (3) years to permit the extension of a garden suite as a second dwelling on the subject lands be approved for the reasons outlined in Report PED-PD-30-2018;
3. AND THAT the application is deemed to be consistent with the Provincial Policy Statement (2014) and the Provincial Growth Plan (2017) and other matters of provincial interest;
4. AND THAT the temporary use by-law attached to Report PED-PD-30-2018 be presented for enactment.

Prepared by: Ashley Taylor, M.Pl, Planner

Reviewed by: Mike Evers, BES, MCIP, RPP, Manager, Planning and Development

Respectfully submitted: Craig Manley, MCIP, RPP, General Manager of Planning and Economic Development

Approved: Donald G. Boyle, Chief Administrative Officer

EXECUTIVE SUMMARY:

The proponent is requesting to extend the use of a garden suite as a secondary dwelling on the subject lands for a period of three years as an alternative living arrangement to private, institutionalized care. The proponent has resided in the garden suite legally since 2010 and requires continued care by her family members in the principal dwelling located onsite. Planning staff have reviewed the proposed extension request against Provincial and County policy frameworks and have deemed that the proposal remains consistent with each. As such, planning staff recommends approval of the subject application. The garden suite is to be removed upon expiry of the temporary use by-law on September 4, 2021 or when it is no longer need by the proponent, whichever comes first. If the garden suite is needed past the expiry date, an extension is to be requested and approved by Council.

BACKGROUND:

The proponent submitted an application for an extension to an existing temporary use by-law to permit the continuation of a garden suite as a secondary dwelling on the subject lands for three years. A garden suite is defined as a one-unit detached residential structure containing bathroom and kitchen facilities that is ancillary to an existing residential structure and that is designed to be portable. The subject application is required because the General Provisions and the 'Agricultural (A)' Zone sections of the Town of Dunnville By-law 1-DU 80 only permits one single detached dwelling per lot. As such, the subject application is required to temporarily permit the extension of the garden suite. Council has the jurisdiction through Section 39 of the *Planning Act* to authorize the temporary use of land, buildings or structures for a purpose set out therein that is otherwise prohibited by the Zoning By-law.

The overarching rationale for permitting a garden suite on a property is to provide a temporary housing option that supports changing demographics, allows for aging in place, and provides opportunities for affordable accommodation. The Haldimand County Official Plan (OP) permits garden suites via a temporary use by-law and implementing development agreement within the 'Agricultural', 'Residential', and 'Hamlet' designations where a legitimate need is demonstrated for a separate housing unit in close proximity to an existing residential use on a property for the care of elderly, sick or disabled persons. The request for the garden suite is based on a legitimate need for the continuation of a separate housing unit in proximity to an existing residential use. The garden suite is intended to be occupied by the proponent for an additional three years as the health and living circumstances of the proponent are such that she will require assistance and attention of family members.

In the context of the subject proposal, a garden suite was originally permitted on the subject lands through application Z-DU 2/92 (By-law No. 17-DU 92) for a three year period. A series of extensions have been granted since that time, each being for a period of three years, which is the maximum timeframe that the *Planning Act* allows for extensions. The occupants of the garden suite have changed since the original application in 1992; the proponent has resided in the garden suite legally since 2010 when their need to continue the use was evaluated and approved. The last extension granted through By-law 908-HC/15 passed on March 9, 2015 (and associated with Report PED-PD-11-2015 which was considered on March 03, 2015) expired on March 9, 2018. The proponent submitted the subject application after the applicant became aware of the pending expiry to ensure zoning compliance and permit the continuance of the garden suite. Due to the timing of receipt of the extension request coupled with the summer recess, the August 28th meeting was the earliest the matter could be dealt with.

As stated above, a development agreement is required to ensure the provisions contained therein (i.e. required removals after a specified time period, occupants of the unit, etc.) are adhered to. In this case, Agreement AG-HA 6/2010 was authorized through By-law No. 1057/10 and signed by the Mayor, Clerk, and the proponent on July 26, 2010. The agreement named Gerald Bruce VanKuren and Mary Jane VanKuren (the proponent and one of three current property owners) as the sole occupants of the garden suite. The agreement permitted the garden suite on the subject lands until January 25, 2013. However, it allows for three year extensions thereafter. As the occupant of the garden suite is unchanged, she jointly owns the property, and the agreement allows for extensions, the agreement is considered in good standing and in full force and effect. The existing agreement will ensure that the sole occupant of the unit will continue to be the proponent and that the garden suite will be removed when the temporary use by-law expires or it is no longer needed by the proponent, whichever comes first. Additional extension(s) for a period not exceeding three (3) years may be submitted and evaluated. The need for the garden suite would be reviewed and re-evaluated upon any further extension request.

Location and Description:

The subject lands are described as Part of Lot 15, Concession 2 from Canborough, Geographic Township of Moulton, now in Haldimand County. The subject lands are located on the east side of Diltz

Road and south of Hutchinson Road. The subject lands are municipally known as 891 Diltz Road. A location map is included as Attachment 1.

The overall property has a frontage of 123.71 metres (405.87 feet) and an area of approximately 6.86 hectares (16.94 acres). The part of which the temporary use by-law will apply to (the “subject lands”) has a frontage of approximately 60.96 metres (200 feet) on Diltz Road and an area of approximately 0.4 hectares (1 acre). The subject lands presently contain a permanent single detached dwelling, a frame barn, a metal drive shed, a frame stable, a frame garage and an existing mobile home that is used as a garden suite. The garden suite is accessed through the main driveway on Diltz Road. The garden suite has a separate septic system (holding tank) and the proponent has an existing pumping contract with a septic company. The garden suite is connected to the dwelling’s private water system. The owner’s sketch has been included as Attachment 2.

The balance of the property is 6.46 hectares (15.94 acres) and is a Christmas tree farm. Surrounding land uses are agricultural and rural residential in nature.

ANALYSIS:

Through the review of the subject proposal, planning staff have identified the following key issues:

Provincial Policy

Provincial Policy Statement (2014):

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The *Planning Act* directs that decisions affecting planning matters “shall be consistent with” the policies of the PPS. Through the PPS, the Province identifies that building strong communities is a provincial interest and is to be addressed, in part, through promoting efficient land use and development patterns that support strong, liveable and healthy communities, protecting the environment and public health and safety, and facilitating economic growth. The garden suite is existing and will provide an alternative to institutionalized, private care. The garden suite provides an affordable housing option for the proponent who requires the presence of her caretakers. The garden suite is located close to the existing dwelling and outside of the farmable area. The garden suite is also located outside of the Niagara Peninsula Conservation Authority’s (NPCA) regulation limits. Overall, it is planning staff’s opinion that the proposal is consistent with the objectives of the PPS.

Provincial Growth Plan (2017):

The purpose of the Growth Plan is to address challenges related to the forecasted growth and changes in the Greater Golden Horseshoe, and to ensure the protection and effective use of finite resources. The Growth Plan establishes a unique land use planning framework for the Greater Golden Horseshoe that supports the achievement of complete communities, a thriving economy, a clean and healthy environment, and social equity. The Growth Plan was reviewed in relation to the subject application and it was determined that there is no conflict with the subject application.

County Policy

Haldimand County Official Plan:

The Haldimand County Official Plan (OP) creates the framework for guiding land use changes in the County to 2026 by protecting and managing the natural environment, directing and influencing growth patterns, and facilitating the vision of the County as expressed through its residents. The OP also provides the avenue through which Provincial Policy is implemented into the local context.

The subject lands are designated ‘Agriculture’. The Community Building policies of the OP permit garden suites in the ‘Agriculture’ designation by way of a temporary use by-law and an implementing

development agreement where a legitimate need is demonstrated for a housing unit in proximity to an existing residential use on a property. Based on the information provided, staff has determined that a legitimate need exists and the structure of the proposal in terms of who will continue to reside in the garden suite and the need for close proximity of the primary caregivers is deemed appropriate. The location of the garden suite on the subject lands also satisfies the following criteria:

- a) the suite is not placed in the front yard of the house or the required front yard as set out in the Zoning By-law;

Planning Comment:

The garden suite is located further from the road than the existing single detached dwelling. The garden suite is located 19.81 metres (65 feet) from the front lot line which exceeds the minimum required front yard setback of 13 metres (42.65 feet). The garden suite is existing and there will be no “on the ground” changes.

- b) the suite is compatible with adjacent residential or agricultural properties in terms of aesthetics, privacy and noise;

Planning Comment:

The garden suite is located on the residential portion of the subject lands and abuts two roads. There are trees located along both the front and exterior lot line. The garden suite is existing.

- c) the garden suite is well removed from potential land use conflicts such as animal operations and operating pits or quarries;

Planning Comment:

While there is an existing dairy operation on lot to the south, the garden suite and dairy operation have both existed for many years. Also, the garden suite is located on the north most portion of the property and is buffered by mature trees and buildings. The garden suite is not adjacent to operating pits or quarries. The garden suite is also located more than 300 metres (located approximately 600 metres) from the active rail corridor to the west of property such that there are no noise or vibration concerns.

- d) the garden suite is sited near the principal farm residence, if situated on a farm;

Planning Comment:

The existing garden suite is located close to the principal farm residence.

- e) the garden suite does not require additional separate access to a municipal road;

Planning Comment:

The existing garden suite utilizes the same driveway access as the single family dwelling.

- f) placement of the unit on the lot is not excessively removed from the existing dwelling;

Planning Comment:

Same as criterion ‘d’) above.

- g) the proposed site is capable of being connected to municipal services or can accommodate a water supply system and is serviced by an on-site sanitary sewage system designed and installed as per the *Ontario Building Code*;

Planning Comment:

The garden suite is serviced by the dwelling’s cistern and a separate, existing hold tank. The proponent has a pumping contract with a septic company.

- h) the location of the unit shall have regard to the Minimum Distance Separation formulae, from livestock operations on adjacent properties; and

Planning Comment:

Same as criterion 'c' above.

- i) there is adequate on-site parking.

Planning Comment:

The subject lands can accommodate the minimum required parking spaces.

Based on the foregoing analysis and planning review, planning staff is of the opinion that the applicable OP criteria are still satisfied and the proposal conforms to the OP.

Further, the Implementation and Interpretation policies of the OP require that, in the case of passing a temporary use by-law for the establishment of a garden suite, an agreement between the owners and the County be prepared addressing tenure, occupancy and conditions of removal of the unit. As discussed in the "Background" section of the subject report, the existing agreement is in good standing and in full force and effect such that this policy requirement is satisfied.

Town of Dunnville Zoning By-law 1-DU 80:

The purpose of the Town of Dunnville Zoning By-law 1-DU 80 is to control the use of land within the County by stating exactly how land may be used, where buildings can be located, the types of buildings that are permitted and how they may be used, the lot sizes and dimensions, parking requirements, building heights, and setback from the street. The Zoning By-law implements the Official Plan and is legally enforceable.

The subject lands are zoned 'Agricultural (A)' Zone. The Zoning By-law permits one unit per lot within the 'A' Zone. However, the proponent previously received approval of a temporary use by-law that permitted a mobile home to be erected as a second dwelling unit on the subject lands for use as a garden suite. The passing of a new temporary use by-law will permit the continuation of the garden suite. The placement of the garden suite complies with all of the setback requirements of the 'A' Zone. The usable floor area of the garden suite (56 square metres/600 square feet) does not meet the minimum usable floor area requirement of the 'A' Zone (70 square metres/753 square feet). The garden suite is existing and has accommodated the occupant for the past eight (8) years. The garden suite is used as a secondary dwelling such that staff have no concerns with the size of the garden suite. A complete zoning review chart is included as Attachment 3.

The temporary use by-law has been included as Attachment 4. The temporary use by-law will expire on September 4, 2021. The proponent may apply for the by-law to be extended for an additional three year term. The need for the garden suite would be reviewed and re-evaluated upon any further extension request. An extension request will require additional Council approval.

Planning Opinion:

Planning staff are of the opinion that the proposal remains consistent with the PPS and conforms to the policies of the Growth Plan and OP as it will promote efficient land use and a development pattern that supports a strong, liveable, and healthy community, and protects the environment, and public health and safety. It will also fulfill the needs of the property owners by providing the extension to an existing garden suite in accordance with the OP criteria. As this proposal complies with the applicable policies, planning staff recommends that the subject proposal be approved and the temporary use by-law be presented for enactment.

Public Consultation:

The proponent did not undertake private public consultation as the garden suite has existed for many years and there will be no “on the ground” changes. A notice of complete application was mailed on May 18, 2018 to the required agencies and neighbours. At the time of writing the subject report, planning staff had received no concerns or objections. A notice of public meeting will also be circulated by no later than August 14, 2018. The proponent confirmed that the public notice sign would be posted on July 5, 2018 in accordance with the *Planning Act*.

FINANCIAL/LEGAL IMPLICATIONS:

Not applicable.

STAKEHOLDER IMPACTS:

Canada Post – Please be advised that Canada Post does not have any comments on this application as garden suites do not affect mail delivery.

Hydro One – Hydro One has no objections to the above proposal.

Emergency Services – No objections.

Public Works–Roads Operations – No objections.

Building Controls & By-law Enforcement – No objections to garden suite extension. There are property standards concerns.

Planning Comment: Planning staff attended the site with a By-law Enforcement Officer to discuss property standards. The proponent has moved the nonoperational vehicles and is working towards removing the camping trailer onsite. The proponent’s agent has contacted staff to discuss additional items to be addressed. Planning staff have no concerns.

No comments were received from Bell Canada, Mississaugas of the New Credit Council, Six Nations Council, Union Gas, Planning & Development–Development & Design, Haldimand-Norfolk Health Unit, or the Municipal Property Assessment Corporation.

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Location Map.
2. Owner’s Sketch.
3. Zoning Review Chart.
4. Draft, Temporary Use By-law.