
HALDIMAND COUNTY

Report PDD-40-2019 Temporary Zoning By-law Amendment to Permit a Garden Suite – Lees



For Consideration by Council in Committee on November 19, 2019

OBJECTIVE:

To present the key issues associated with a proposal to establish permissions for a new garden suite on a temporary basis for ten years through a zoning amendment along with a recommendation from Planning staff in order to assist Council in making a decision.

RECOMMENDATIONS:

1. THAT Report PDD-40-2019 Temporary Zoning By-law Amendment to Permit a Garden Suite – Lees be received;
2. AND THAT application PLZ-HA-2019-159 to pass a temporary use by-law for a period of ten years to permit a garden suite as a second dwelling be approved for reasons outlined in Report PDD-40-2019;
3. AND THAT the proposal is deemed to be consistent with the Provincial Policy Statement 2014, Provincial Growth Plan, and other matters of Provincial interest;
4. AND THAT the temporary use by-law attached to Report PDD-40-2019 be presented for enactment;
5. AND THAT the Holding 'H' removal by-law attached to report PDD-40-2019 be presented for enactment and the General Manager of Community & Development Services be granted authority to remove the holding provision when all conditions relating to the matter are satisfactorily addressed;
6. AND THAT the authorizing by-law attached to Report PDD-40-2019 be presented for enactment.

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Respectfully submitted: Mike Evers, MCIP, RPP, BES, General Manager of Community & Development Services

Approved: Craig Manley, MCIP, RPP, Chief Administrative Officer

EXECUTIVE SUMMARY:

The proponents are requesting permission to locate a garden suite on their property as an alternative living arrangement for elderly parents/in-laws that require close proximity of a family member. Planning staff have reviewed the proposed zoning amendment against Provincial and County policy frameworks and the proposal is consistent with each. The Haldimand County Official Plan permits 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. The proposal satisfies the criteria as set out in the Official Plan, including that which relates to occupants, location of the unit, and separation from potential land use conflicts. The garden suite is to be temporary and removed after ten years from the date of the decision or when

there is no longer a demonstrated need, whichever comes first, unless a three year extension is granted by Council prior to the date of expiry. Planning staff recommends approval of this proposal for the reasons listed within this report. Planning staff also recommends that a holding provision be attached to the zoning of the property to ensure that the permits for the garden suite septic system and the garden suite itself are not issued, until the County is satisfied that a garden suite agreement has been executed, and the Building and Municipal Enforcement Services are satisfied with the location and design of the septic system.

BACKGROUND:

The purpose of the subject zoning application is to permit the establishment of a mobile home as a secondary dwelling (garden suite) on a temporary basis for a period of ten years on the subject lands. The proponents have requested to establish the garden suite on the subject lands to accommodate one of the proponent's elderly parents. A garden suite is a temporary accommodation and consists of a self-contained portable dwelling unit containing bathroom and kitchen facilities. Garden suites are required to be secondary to an existing residential dwelling and portable. 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. In this case, the garden suite provides the proponents' parents/in-laws with an alternative opportunity to live in a non-institutionalized, private, and affordable dwelling unit while having the benefit of nearby, day-to-day assistance of a familiar person (i.e. their child).

In the context of this proposal, the proposed garden suite is to be used for year-round residency by the parents of one of the property owners. The proponents are aware that the garden suite must be a certain class of trailer as per the *Ontario Building Code*. The garden suite will be a one storey mobile home measuring approximately 113 square metres (1,216 square feet). The proposed garden suite will be located in the north east corner of the subject lands approximately 50 metres (164 feet) to the existing permanent dwelling. The proponents intend to utilize the existing driveway access for the garden suite. From a servicing perspective, the existing dwelling is serviced by a cistern and septic system. A cistern and additional septic bed are proposed for the garden suite. A location map and an owner's sketch are included as Attachments 1 and 2, respectively. The owner's sketch illustrates the location of existing structures, including the single detached dwelling, the proposed location of the garden suite, driveway, and the proponents' preferred location for additional private servicing.

Location and Description:

The subject lands are described as geographic township of Selkirk, Rainham Concession 2, Part Lot 2, 9 and South, Half Part Lot 10, Reference Plan 18R7315, Part 1, now in Haldimand County and are municipally known as 4637 Rainham Road. The subject lands are located on the north side of Rainham Road, between Kohler Road and Fisherville Road and within the prime agricultural area of the County. The subject lands are approximately 0.6 hectares (1.48 acres) in size and contain a single detached dwelling and a garage. The garden suite is proposed to be located north east of the single detached dwelling. The subject lands are shown in Attachment 2.

ANALYSIS:

Through the review of this 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 determines that building strong communities is a provincial interest and it 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 will not require any infrastructure upgrades on the part of the County and will provide an affordable housing option for elderly persons that require a presence close to their caretakers. The location of the garden suite on the property outside of the hazardous area will ensure that environmental and public health and safety concerns are addressed. Overall, it is Planning staff’s opinion that the proposal is consistent with the objectives of the PPS.

Provincial Growth Plan (2019):

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:

In the context of Haldimand County, the Official Plan (OP) permits garden suites via a temporary use by-law and an 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 subject lands are designated ‘Agriculture’ as they are located within the prime agricultural area of the County and the OP does not differentiate between farm parcels and rural residential lots for designation purposes. While the subject lands are located on a rural residential lot rather than a farm parcel, the intent of the proposal remains the same, i.e. to provide temporary accommodation for the proponents’ elderly parents/in-laws. Given that the OP does not differentiate between rural residential lots and farm parcels and that garden suites are permitted on lots where the main dwelling has been established, the same policy framework for garden suites applies to this proposal.

Based on the information provided by the proponents, staff has determined that a legitimate need exists and the structure of the proposal in terms of who resides and the need for close proximity to the primary care givers (i.e. one of the proponent’s parents) 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 not placed in the required front yard as illustrated in the attached owner’s sketch (Attachment 2). The garden suite will remain in close proximity to the principal dwelling. It is Planning staff’s opinion that the location of the garden suite is appropriate. Further discussion on this matter will be provided in the ‘Town of Haldimand Zoning By-law 1-H 86’ section below.

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

Planning Comment: The garden suite will be located approximately 61 metres (200 feet) from the front lot line. The garden suite will be located north east of the existing dwelling such that the dwelling will be more prominent from the road. Also, the subject lands are located along Rainham Road rather than in a neighbourhood, where vehicular speed is faster and walkability is reduced.

Given all of these items, it is Planning staff's opinion that the garden suite is unlikely to negatively affect the aesthetics of the area.

Also, the garden suite is proposed to be located 3 metres (9.8 feet) from the right interior lot line and 13 metres (42 feet) from the rear lot line. The Zoning By-law requires that principal buildings and structures be located at least 3 metres from the interior side lot line and 13 metres from the required rear lot line. The garden suite is considered to be a second (temporary) dwelling and conforms to the minimum setback provisions for principal buildings and structures. The property is surrounded by active farmlands with the closest neighbour residing west of the existing principle structure. Therefore, the proposed garden suite would have no impact on the existing neighbours.

Also, on the date the application was submitted the proponents committed to discussing the intent of the application within their neighbours within the area. At the time of writing this report, planning staff had received no inquiries from the neighbours regarding the application. Also at the time of writing this report, the neighbours were circulated on the notice of complete application and will be circulated on the notice of public meeting.

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

Planning Comment: Based on aerial imagery and site inspections no livestock operation is located in close proximity to the subject lands. Also, there are no pits or quarries located adjacent to the subject lands.

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

Planning Comment: This criterion does not apply to this proposal.

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

Planning Comment: The garden suite is proposed to share the existing driveway utilized for the principal residence.

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

Planning Comment: The garden suite will remain in close proximity to the principal dwelling.

- 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 proponents hired a registered septic installer to prepare a septic plan and submitted the plan to the County. The preliminary plan demonstrates feasibility of servicing. The final septic design and location will need to meet the requirements of the *Ontario Building Code*. The standard approach is to place a holding (H) provision on site to ensure that certain conditions are satisfied prior to receiving a permit from the Building and Municipal Enforcement Services.

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

Planning Comment: There is no conflict between the proposed garden suite and livestock operations as there are no such uses within the prohibited distances (see also sub-point 'c' above).

- i) there is adequate on-site parking.

Planning Comment: There is adequate space on the subject lands for additional parking for the garden suite.

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

Also, 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. The agreement provides the County with additional control over issues of land use compatibility and aesthetics of the development and to assist with respect to removal of the unit once there is no longer a demonstrated need for it. The agreement will outline that the garden suite can only be occupied by proponents' parents/in-laws and that the garden suite shall be removed within ten years of the date of decision or if there is no longer a demonstrated need for it, whichever comes first. It will also recognize the possibility of extending the temporary use on three year increments if extension is requested prior to the date of expiry. In order to execute the agreement by the Mayor and Clerk an authorizing by-law is required. The authorizing by-law has been added to this report as Attachment 4.

Town of Haldimand Zoning By-law 1-H 86:

The subject lands are currently zoned 'Agriculture (A)' Zone. The Zoning By-law permits one dwelling unit per lot within the 'A' Zone. However, the passing of a temporary use by-law would permit the establishment of the mobile home as a second, temporary dwelling unit on the property for use as a garden suite. The garden suite will comply with the provisions currently applicable under the 'A' Zone. A complete zoning review chart is included as Attachment 6.

The proponents have decided on a general mobile home for the property. The mobile home that the applicants are interested in measures 4.88 metres (16 feet) by 23.2 metres (76 feet) in size. The Zoning By-law requires a minimum usable floor area of 80 square metres (860 square feet) per dwelling unit. The proposed garden suite will be approximately 113 square metres (1,216 square feet), and therefore complies with the provisions of the Zoning By-law. The proponents are aware that the garden suite must be a certain class of trailer as per the *Ontario Building Code* and have been looking at mobile homes that "fit" within the required class.

Further, the temporary use by-law for the garden suite has been included as Attachment 3. Planning staff also recommends that a 'H' provision be attached to the zoning of the property to ensure that the permits for the garden suite's septic system and the garden suite itself are not issued until the garden suite agreement has been executed and the Building and Municipal Enforcement Services is satisfied with the location and design of the septic system. The 'H' removal by-law has been attached as Attachment 5 which will grant the General Manager of Community & Development Services the authority to remove the 'H' provision when all conditions relating to the matter are satisfactorily addressed. Once the 'H' provision is removed, a permit for the septic system and the garden suite can be obtained from Haldimand County.

To ensure that the garden suite is removed when it is no longer required, this report includes a temporary use by-law. This by-law and accompanying agreement will apply for a time period of ten years upon which it will expire and any granted permissions will cease to exist. The proponents may apply for the by-law and an accompanying agreement 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.

Planning Opinion:

Planning staff are of the opinion that the proposed use is consistent with the PPS, Growth Plan, and conforms to the policies of the Official Plan as it will promote efficient land use and a development pattern that supports a strong, livable, and healthy community, and protects the environment, public health and safety. It will also fulfill the needs of the property owners by providing an alternative and affordable living arrangement for elderly parents/in-laws in accordance with the Official Plan criteria. As

this proposal complies with the applicable policies, planning staff recommends that the proposal be approved and the temporary use by-law with a holding provision be presented for enactment.

FINANCIAL/LEGAL IMPLICATIONS:

Not applicable.

STAKEHOLDER IMPACTS:

Building and Municipal Enforcement Services – No objections.

Planning Comment: The proponents are working with the Building Inspector to finalize the an acceptable second septic bed. Planning staff are recommending that a 'H' provision be placed on the zoning of the property until such time as this matter is addressed to the satisfaction of the County. No site specific setbacks have been requested as part of this application.

Planning and Development (Development and Design Technologist) – No concerns.

Emergency Services/Fire Department – No comments were received.

Roads Operations – No comments were received.

Hydro One – No concerns.

Haldimand-Norfolk Health Unit – No comments were received.

Municipal Property Assessment Corporation (MPAC) – No concerns.

Public – No comments were received.

No comments were received from Bell Canada, Canada Post Corporation, Mississaugas of the Credit First Nation, Six Nations Council, or Union Gas.

The proponents indicated that they were going to discuss with the neighbours in the area that they were applying to Haldimand County for a garden suite to be located on their property to provide care for one of the property owner's elderly parents. At the time of writing this report, Planning staff had received no inquiries from the neighbours regarding the application. Also at the time of writing this report, the neighbours were circulated on the notice of complete application and will be circulated on the notice of public meeting. A public notice sign was posted well in advance of the public meeting.

REPORT IMPACTS:

Agreement: Yes

By-law: Yes

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Location Map.
2. Owner's Sketch.
3. Draft Temporary Use By-law.

4. Draft Authorizing By-law.
5. Draft Holding Removal By-law.
6. Zoning Review Chart.