
HALDIMAND COUNTY

Report PDD-02-2021 Zoning By-law Amendment Application to Facilitate Residential Use – DiFranco



For Consideration by Council in Committee on June 22, 2021

OBJECTIVE:

To present the planning considerations related to a Zoning By-law Amendment application to permit the conversion of the existing building on the subject lands into a single family dwelling with two (2) bed and breakfast rooms.

RECOMMENDATIONS:

1. THAT Report PDD-02-2021 Zoning By-law Amendment Application to Facilitate Residential Use – DiFranco be received;
2. AND THAT application PLZ-HA-2020-174 to amend the Haldimand County Zoning By-law HC 1-2020 by rezoning the subject lands from “Community Institutional (IC)” to “Hamlet Residential (RH)” with special provision RH.2 to permit the conversion of the existing building into a single family dwelling and bed and breakfast be approved for reasons outlined in Report PDD-02-2021;
3. AND THAT the by-law attached to Report PDD-02-2021 be presented for enactment;
4. AND THAT the application is considered to be consistent with the Provincial Policy Statement (2020), A Place to Grow (2020), and other matters of Provincial Interest.

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Reviewed by: Shannon VanDalen, MCIP, RPP, CMMI, Manager of Planning & Development

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

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

EXECUTIVE SUMMARY:

The applicant submitted a Zoning By-law Amendment application to amend the Haldimand County Zoning By-law HC 1-2020 to permit the conversion of the historic Enniskillen Lodge in the Hamlet of York into a single family dwelling with the option for two (2) Bed and Breakfast rooms. The subject application is required because the current ‘Community Institutional (IC)’ Zone does not permit the proposed use. It is Planning staff’s opinion that the proposal is consistent and conforms to Provincial and County policy frameworks. Planning staff recommends approval of this Zoning By-law Amendment application and passing of the attached Zoning By-law. Additional approval and permits will be required from Heritage Haldimand, the Grand River Conservation Authority (GRCA), and the County (entrance and building permits).

BACKGROUND:

The applicant submitted a Zoning By-law Amendment application to permit the conversion of an existing building into a single family dwelling with an option for two (2) bed and breakfast rooms (Attachments 1 and 2). To accommodate the proposal, the applicant intends to replace the existing holding tank (a form of septic system) with a larger holding tank; formalize the driveway, and provide additional parking on the subject lands. The subject lands are located within the Hamlet of York and legally described as Part Lots 9, 10, 11, Plan 216, Geographic Township of Seneca. The subject lands have a municipal address of 39 Front Street South, York. The subject lands are a corner lot and are located southeast of the intersection of Front Street South and King Ave. Within the Hamlet of York boundaries, Haldimand Highway 54 is known as Front Street South. The subject lands have approximately 66 metres (217 feet) of frontage on the east side of Front Street South and have approximately 20 metres (66 feet) of frontage on the south side of King Ave. The subject lands are 0.12 hectares (0.3 acres) in size.

The subject lands contain an existing historic commercial building with architectural interest, an informal driveway, and holding tank. The subject lands are designated under Part IV of the *Ontario Heritage Act* and are known as the Enniskillen Lodge. The subject lands were designated in 1983 (By-law #388/83) for architectural or historical value or interest including: large Georgian style windows; projected cornice with articulated dentils; regency 4-panel door with sidelights and rectangular transom; chimney design; horizontal band coursing; hood moulds over windows with label stops; bastard tuck joints on front elevation; and it is the only remaining building in the area, which served navigation on the Grand River. Given the existing building's heritage designation, prior to undertaking any work, the applicant will need to work with Heritage Haldimand to ensure that any concerns or updates to the subject lands do not impact the heritage elements described above. Any request to alter the heritage elements must be submitted in writing to Council. A "Request for Alteration" form was provided to the applicant a few years ago. Notwithstanding, the Supervisor of Heritage and Culture has no objection to the Zoning By-law Amendment application for the change of land use.

Further, the subject lands are currently zoned 'Community Institutional (IC)' Zone and are subject to the 'Hazard Land (HL)' overlay in the Haldimand County Zoning By-law HC 1-2020. The 'IC' Zone permits a number of commercial and institutional uses. The 'IC' Zone also grandfathers existing single family dwellings; however, given there is no history of use as a dwelling, conversion of the building to a single family dwelling with bed and breakfast rooms must be introduced via a zoning amendment.

Without regard for zoning and permits, the applicant began work to convert the existing building into a single family dwelling. The Building & Municipal Enforcement Services Division placed a Stop Work Order on the subject lands and the applicant began applying for building permits in late summer 2020. However, building permits could not be issued due to the 'IC' Zone of the subject lands. To address this, the applicant submitted the subject Zoning By-law Amendment application on October 30, 2020 to rezone the subject lands from the 'IC' Zone to the 'Hamlet Residential (RH)' Zone. The applicant's agent (daughter) has been working with staff to move the Zoning By-law Amendment application forward. There have been some delays due to the proposed holding tank but all technical matters are now in order. Approval of this Zoning By-law Amendment application is required for the applicant to rectify the Stop Work Order and to obtain building permits. The applicant is also required to work with Heritage Haldimand and the Grand River Conservation Authority (GRCA).

ANALYSIS:

The following planning considerations apply to this proposal:

Provincial Policy

Provincial Policy Statement (2020):

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.

The subject lands are designated ‘Hamlet’ and are located within the Hamlet of York. The PPS states healthy, liveable and safe communities are sustained by accommodating an appropriate and market-based range, a mix of residential types, employment, institutional, recreation, park and open space, and other uses to meet long-term needs. The PPS further states that long-term economic prosperity should be supported by promoting opportunities for economic development and community investment-readiness; encouraging residential uses to respond to dynamic market-based needs and providing necessary housing supply and a range of housing options for a diverse workforce; optimizing the long-term availability and use of land, resources, infrastructure and public service facilities; maintaining and, where possible, enhancing the vitality and viability of downtowns and main streets; and encouraging a sense of place, by promoting well-designed built form and cultural planning, and by conserving features that help define character, including built heritage resources and cultural heritage landscapes.

The subject lands are located in the Hamlet of York and are a lot of record. The subject lands are built-out but the existing building is vacant. The applicant is proposing to bring a new single family dwelling online, while providing bed and breakfast opportunities. While the subject lands were historically used for commercial and institutional uses, the size and location of the subject lands do not lend themselves to today's commercial or institutional uses. More specifically, the subject lands are located within the Hamlet of York; it is reasonable to assume that residents outside of the Hamlet would drive to the subject lands and parking would be required for any commercial use. The subject lands are too small to accommodate (among other items) a restaurant, community centre, place of worship, or school with required parking. The subject lands are also located at an intersection and continued commercial or institutional use of the subject lands could conflict with the intersection.

At the same time, the proposal consists of both a single family dwelling and bed and breakfast opportunities. The bed and breakfast component of the proposal will provide temporary housing accommodation, maintain some commercial use of the subject lands, and enhance tourism. The subject lands are a historic property containing an architecturally appealing building across from the Grand River which will attract reservations for the bed and breakfast rooms and benefit other businesses within the County.

Along the same lines, the PPS requires significant built heritage resources and significant cultural heritage landscapes to be conserved. The PPS directs that planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved. The subject lands are designated under the *Ontario Heritage Act*, and its heritage elements are protected. Haldimand Heritage must be consulted before site alteration occurs.

Further, the subject lands are also designated ‘Riverine Hazard Lands’ and are identified as being within the floodway and flood fringe of the Grand River. The PPS states that development shall generally be directed to areas outside of hazardous lands adjacent to rivers. The subject application does not represent development or significant site alteration. Notwithstanding, the GRCA has reviewed the proposal, and given the applicant is proposing to change the land use and include new residential uses, has no objections to the subject Zoning By-law Amendment application. The GRCA's comments are included in the Stakeholder Impacts section below. The GRCA states that any site alteration (including construction of parking spaces or a parking lot for bed and breakfast guests and a new

holding tank) or inclusion of additional residential units in the existing building will require permits from the GRCA. The applicant will be required to obtain GRCA permits prior to obtaining County building permits as part of the standard building permit process.

Lastly, where municipal or private communal services are not available, planned or feasible, the PPS permits individual on-site services provided that site conditions are suitable for the long-term provision of such services with no negative impacts. The subject lands are serviced by an existing cistern and holding tank. The applicant is proposing to replace and upsize the existing holding tank to accommodate the change in land use. As part of the application package, the applicant submitted a septic evaluation prepared by a licensed installer. The Building Division has reviewed the septic evaluation and is satisfied.

Overall, it is Planning staff's opinion that the proposal is consistent with the PPS.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020):

To address challenges related to the magnitude of growth that is expected over the coming decades for the Greater Golden Horseshoe (GGH) and to ensure the protection of finite resources, the Provincial Growth Plan (Growth Plan) builds on the PPS to establish a unique planning framework for the GGH that supports the achievement of complete communities, a thriving economy, a clean and healthy environment, and social equity. The *Places to Grow Act* requires decisions affecting planning matters to conform to the Growth Plan. The Growth Plan does not provide any additional policy direction above the PPS. It is Planning Staff's opinion that the proposal conforms to the Growth Plan.

County Policy

Haldimand County Official Plan:

The Haldimand County Official Plan (OP) creates the long-term 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. Decisions on Zoning By-law Amendment applications must conform to the OP.

The subject lands are designated 'Hamlet' and 'Riverine Hazard Lands' and are identified as being within the floodway and flood fringe of the Grand River in the OP. The subject lands are located within the Hamlet of York.

The Hamlet policies of the OP state that the 25 designated hamlets within the County were traditionally developed as residential, social and commercial centres serving the surrounding agricultural community. While this traditional role will continue to be encouraged, it is also recognized that changes and improvements to transportation facilities over time have lessened the emphasis on hamlets as agricultural service centres and increased their role as residential settlements.

Further, it is the intent of the County to provide a hamlet environment conducive to rural residential living while permitting appropriately scaled and located commercial, industrial and institutional development in a manner that will minimize land use conflicts. The predominant land use within the Hamlet designation shall be low density residential housing, including single and semi-detached dwellings and apartments associated with commercial uses.

It is Planning staff's opinion that the proposal conforms to the intent of these OP policies. The OP does not protect against commercial and institutional hamlet conversion to residential use. In fact, the OP anticipates this exact scenario; the OP recognizes that commercial uses in the existing hamlets are likely to lessen and pressure for residential use is likely to increase.

Further, the OP states that the 'Hamlet' designation does not necessarily imply that all development proposed will be acceptable and that all sites within the designation are suitable for development. The

following criteria shall be considered when reviewing applications for development within designation hamlets:

- a) the traditional form of servicing in the Hamlet areas has been individual water services and on-site sanitary sewage systems and installed as per the Ontario Building Code;

Planning Comment: The Building Division has preliminarily accepted the septic evaluation. The Building Division has accepted installation of a larger holding tank, rather than requiring a new tile bed system because the property is serviced by an existing holding tank and therefore is grandfathered for the service. Additionally, the subject lands are relatively small and irregular in shape – therefore making it challenging to fit a tank and bed system.

- b) the availability and provision of adequate stormwater management facilities and legal and adequate drainage outlets;

Planning Comment: The subject lands are built-out. The applicant is proposing a formal driveway and parking spaces to accommodate two (2) bed and breakfast rooms as well as a new holding tank. Given the low density residential use and small number of bed and breakfast rooms proposed, site plan control (including the requirement for grading plans) does not apply. Low density residential use (including bed and breakfast rooms) is considered to be a low intensity land use; significant impacts are not expected from low intensity land uses such that they are accepted from site plan control. The applicant will be expected to run his bed and breakfast in conformance with the Zoning By-law provisions (including parking requirements), which is the same expectation for any urban or hamlet residential property.

Further, the Grand River Conservation Authority (GRCA) commented that filling and grading within the floodplain will require a permit from the GRCA. Additionally, local drainage should be maintained for the area when considering the installation of servicing infrastructure. The applicant will be required to obtain permits from the GRCA for any development or site alteration, and the GRCA will require grading to be maintained. The GRCA's comments are included in the Stakeholders Impacts section below.

- c) new development should be a logical extension of the existing built-up area;

Planning Comment: The development is a conversion of an existing building within the York hamlet boundaries. There is no extension to the area.

- d) in-depth development rather than linear development along roads is the preferred form of development in hamlets;

Planning Comment: Not applicable.

- e) provision shall be made at appropriate locations to permit access from main roads to second or third tiers of lots behind existing development;

Planning Comment: Not applicable.

- f) proximity to, and the potential impact on Natural Environment Areas, Hazard Lands and cultural heritage resources should be addressed; and

Planning Comment: The applicant will be required to obtain permits from the GRCA.

- g) the standards for separating residential uses from existing, new or expanding livestock facilities shall be the Minimum Distance Separation (MDS) formulae.

Planning Comment: The subject lands are located well within the Hamlet boundary of York and are designated for residential use. There are no livestock facilities in the area. The MDS formulae does not apply.

Further, the OP permits bed and breakfast establishments within 'Agricultural', 'Residential', 'Hamlet', and commercial designations and also within the vicinity of the Grand River and Lakeshore area but outside Hazard Lands and Natural Environment Areas in accordance with the following criteria:

- a) with the exception of the commercial designations, the use is clearly accessory to the principal residential use of the property and the use does not significantly change the character of the dwelling as a private residence;

Planning Comment: The existing building is a historic lodge. The applicant will be required to work with Heritage Haldimand and will not be permitted to change any heritage elements without Council's approval.

- b) in commercial designations, the bed and breakfast establishment is not permitted in the street front portion of the building at street level;

Planning Comment: The subject lands are designated 'Hamlet', not commercial. This policy criterion does not apply.

- c) in the 'Agricultural' designation, the bed and breakfast establishment is permitted as a secondary use;

Planning Comment: This policy criterion does not apply.

- d) the dwelling unit in which the use is established is occupied by the operator and employment associated with the use is restricted to members of the household and one outside worker;

Planning Comment: The applicant will be expected to satisfy this policy criterion.

- e) the use will not generate undue noise, traffic, and have inappropriate signage to the extent of interfering with the ordinary enjoyment of surrounding properties;

Planning Comment: The subject proposal will "down zone" the subject lands from a commercial to residential land use (i.e. a less intensive land use). The proposal for a single dwelling with two (2) bed and breakfast rooms is considered appropriate. No relief of the parking provisions is proposed through this amendment and the applicant will be required to meet the parking requirements in the Zoning By-law and obtain necessary permits from Roads Operations and the Grand River Conservation Authority for formalizing the driveway and creating additional parking spaces.

- f) signage shall be appropriately scaled for the use; and

Planning Comment: Any proposed signage must comply with the County's Sign By-law 1064/10 and may require permits.

- g) adequate parking is provided on site.

Planning Comment: The applicant will be required to provide parking spaces in accordance with the Haldimand County Zoning By-law HC 1-2020. There is expected to be enough space on the subject lands to fit the required parking spaces.

The 'Riverine Hazard Land' policies were addressed in the PPS section above. Overall, it is Planning staff's opinion that the proposal conforms to the Official Plan.

Haldimand County Zoning By-law HC 1-2020:

The subject lands are currently zoned 'Community Institutional (IC)' Zone and are subject to the 'Hazard Land (HL)' overlay. The 'IC' Zone does not permit the conversion of the existing building into a single family dwelling with opportunities for bed and breakfast rooms. The applicant is requesting to rezone the subject lands to the 'Hamlet Residential (RH)' Zone. The 'RH' Zone permits a single family dwelling, bed and breakfast establishment, accessory secondary suite, and accessory home-based businesses.

In terms of zone provisions, the existing building does not conform to all the required zone provisions (setbacks, etc.). The Change of Use section of the Zoning By-law states that a permitted use, in a building or on a lot that does not comply with the regulatory provisions of this by-law may change to another permitted use without the need for a minor variance from the Committee of Adjustment provided that the regulatory provisions are not more restrictive for the new use and where a building permit has been issued where applicable. The 'RH' Zone is more restrictive than the 'IC' Zone for front and rear yard setbacks. To ensure conversion of the existing building can occur in conformity with the Zoning By-law, Planning staff recommends that a special provision be added to the zoning of the subject lands to recognize existing zone provisions for the existing building as of the date of passing of the site specific Zoning By-law. The special provision will also deem Front Street South to be the lot frontage (rather than King Ave).

Further, in conformity with the Official Plan, the Zoning By-law sets out the following regulations for bed and breakfast operations:

- a) a bed and breakfast establishment shall be permitted only in the zones indicated in this By-law and shall be clearly accessory to the main residential use and shall not change the residential character of the principal dwelling unit;

Planning Comment: This was addressed in the Official Plan section above.

- b) the dwelling unit in which the bed and breakfast establishment exists is occupied by the operator of the bed and breakfast establishment, and employment associated with a bed and breakfast establishment is restricted to members of the dwelling unit and a maximum of one (1) outside employee is permitted;

Planning Comment: This was addressed in the Official Plan section above.

- c) a maximum of three (3) bedrooms may be made available for guests for the first 140 square metres of gross leasable floor area. One (1) additional room is permitted for each additional 23 square metres of gross leasable floor area, up to a maximum of 10 guest rooms for those properties measuring 0.4 hectare;

Planning Comment: The applicant is proposing two (2) bed and breakfast rooms but would have the opportunity for additional guest rooms provided additional parking spaces are provided.

- d) a minimum of one (1) additional parking space per guest room is required;

Planning Comment: The applicant will be required to provide four (4) parking spaces on the subject lands (two for the single family dwelling and 2 for the guest rooms). The subject lands are relatively large such that the applicant should be able to provide the required parking spaces.

- e) one (1) of the required parking spaces may be provided by means of a tandem parking space;

Planning Comment: No comment.

- f) a minimum of 40% of the front yard of a lot used for bed and breakfast purposes shall be provided and maintained as landscaped open space and such open space shall not be utilized for parking space and/or driveway purposes;

Planning Comment: Given that the subject lands are built-out, it is not possible to comply with this zone provision. This will be included in the special provision.

- g) a dining room is permitted but is restricted to use by patrons of the bed and breakfast establishment only;

Planning Comment: No comment.

- h) site plan control shall apply to those establishments of 4 guest rooms or greater;

Planning Comment: The applicant is proposing two (2) guest rooms. If the applicant grows his business on the subject lands, site plan control will apply at four (4) or more guest rooms.

- i) accessory retail uses are permitted but are restricted to a maximum of 10% of floor area uses for the bed and breakfast establishment, including common areas;

Planning Comment: No comments.

- j) within a Commercial Zone, the bed and breakfast establishment is not permitted on the ground flood adjacent to the street; and

Planning Comment: Not applicable.

- k) a bed and breakfast establishment or guest house shall not be permitted on a lot which has frontage on and access to a private street.

Planning Comment: Not applicable.

Further, the subject lands are subject to the 'Hazard Land' overlay. The Zoning By-law states that the GRCA must be contacted prior to any work taking place in the Regulated Area.

Overall, it is Planning staff's opinion that the proposal is consistent and conforms to Provincial and County policy frameworks. A Zoning Confirmation Form is included with this report as Attachment 3. A Zoning By-law has been included with this report as Attachment 4. Planning staff recommend passage of the Zoning By-law.

Public Consultation:

As part of the application package, the applicant submitted a public consultation strategy. The applicant committed to sending letters to the immediate neighbours. The required *Planning Act* notices have been carried out. At the time of writing this report, no public feedback had been received.

FINANCIAL/LEGAL IMPLICATIONS:

Not applicable.

STAKEHOLDER IMPACTS:

Bell Canada – Upon review of the proposed construction that will cross over the Bell easement found at 39 Front Street South, York, it has been determined by our local Engineering Department that the encroachment will be tolerated subject to the conditions as identified within the Bell Canada Easement Encroachment Consent (Attachment 5). We kindly request the landowner sign the Consent and return it to the undersigned for final execution by this office validating the tolerance of the encroachment.

Canada Post Corporation – Canada Post does not have any comments on this application for a zoning change from Institutional to Residential as this will remain only 1 address that Canada Post delivers to regardless if there is a bed and breakfast located inside of the dwelling.

Grand River Conservation Authority (GRCA) – See attached comments (Attachments 6 and 7). Additional comments include: The replacement of the septic system would require a permit from the GRCA along with works to install the parking lot. The GRCA has no concerns with the septic for rezoning. Applicant is required to note drainage path from east to west on septic plan. The applicant should be aware of the space required as they are considering options. Additionally it appears that the site receives water from the adjacent area and is located around a low spot. The GRCA recommends

that the drainage be maintained to accommodate the water moving through the site or potentially mounding of water may occur around the residential onsite structure.

Trans-Northern Pipeline (TNPI) – TNPI has no comments as the proposed development is approximately 5.2 km away from the TNPI pipeline.

Railway – No comments received from CN or CP Rail.

Mississaugas of the Credit First Nation – No objections or concerns regarding the proposal.

Six Nations Council – No comments received.

Union Gas – No objections or concerns regarding the proposal.

Hydro One (High Voltage/Corridor) – No comments received.

Hydro One (Local) – No objections.

Emergency Services/Fire Department – No objections.

Water & Wastewater Engineering & Compliance – No comments received.

Planning & Development (Development and Design) – If the driveway is existing and Roads Operations is satisfied with the location of the driveway, no objection. The driveway should be located 1 metre from the building and property line. Any new parking to accommodate a Bed and Breakfast must satisfy the Zoning By-law and engineering Design Criteria.

Roads Operations – Roads Operations has no objection to a driveway in the location the applicant has requested. It looks like the owner has been using it for a driveway for a while now. It is not a proper driveway; the owner is just driving over the sidewalk onto the yard. There is no objection to the owner putting in a proper driveway for a single family dwelling or bed and breakfast.

Facilities, Parks, Cemeteries & Forestry Operations (Forestry) – Forestry doesn't have any concerns with the proposed zoning amendment since there will be no impacts on any Woodlands or County owned trees.

Treasurer/Finance Division – Haldimand County By-law 2042/19 being a by-law to establish Development Charges on Lands within the Corporation of Haldimand County Section 6 (c) (i) states:

Change of Use

Where an existing non-residential building or structure is converted in whole or in part to residential use, the residential development charge payable for the dwelling units shall be reduced by the amount equal to the non-residential development charges paid for the development being converted, but any such reduction shall not produce a refund. No credit will be provided for services excluded from the non-residential charge.

Planning Comment: Any applicable development charges will be charged at the time of building permit application.

Building & Municipal Enforcement Services – No concerns with rezoning the property. We will require permit application for changes (already started but must follow through) and septic evaluation. If proposing bed and breakfast that meets the Zoning By-law including additional parking space for each room required up to a maximum of five rooms.

Municipal Property Assessment Corporation (MPAC) – No comments received.

Haldimand-Norfolk Health Unit – No comments received.

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Location Map.
2. Owner's Sketch.
3. Zoning Confirmation Form.
4. Zoning By-law.
5. Bell Agreement.
6. GRCA Comments.
7. GRCA Map.